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**Mongolia Judicial Reform Program**  
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## Executive Summary

2004 marked the fourth year of the Mongolia Judicial Reform Program (JRP) which made significant progress in accomplishing the Priority Tasks outlined in the Cooperative Agreement and Workplans. The Year 4 activities focused on sustainability of changes implemented during the previous three years.

### Priority Task 1, *Court Management and Administration*:

The JRP completed the automation of all courts in Mongolia along with introducing new processes and policies as envisioned in the Workplan. As a result the efficiency of courts increased and more importantly the automation provides greater transparency and accountability. The automation of most of the new Administrative Courts that were established in June 2004 will be a task for 2005 for the JRP.

The JRP assisted the courts in developing a court administration and management concept by providing comparative background material from other countries with different systems and organizing a study tour to the US as the knowledge basis for the conceptual development process. A nationwide survey was conducted by the General Council of Courts (GCC) with the assistance of the JRP to identify the state of court administration. The working group on court administration and management developed the draft concept and submitted it for endorsement to the GCC. The group identifies service oriented “customer friendly” administration of courts as the key element of the concept.

### Priority Task 2, *Review of the Organization, Structure, Jurisdiction and Responsibility of Justice System Agencies*:

Significant strides were made in supporting cooperation among justice system institutions in improving arrest and detention procedures, with a positive impact on human rights. The development of arrest and detention joint regulations provides for a mechanism to enforce the JRP recommendations on the Criminal Procedure Code. As a result of this activity a Supreme Court Interpretation has been issued and a proposal for amendments to the Criminal Procedure Code has been developed and submitted to the Ministry of Justice and Home Affairs (MoJHA).

The results of the comprehensive workload study conducted in 2003 and of a limited study conducted by the Supreme Court Research Center in 2004 applying the methodology the JRP had introduced last year are being used for rational allocation of human resources and improvement of management. In addition, the results are also being used to compare workloads and productivity among similar courts and to support the establishing of Aimag Courts on a regional basis. This will be a key factor in evaluating the commitment of the new Government of Mongolia to implement effective court administration.

### Priority Task 3, *Training and Continuing Education for Legal Professionals*:

The JRP has been providing technical assistance on organization and management to the National Legal Center (NLC) throughout 2004, particularly, in introducing new creative interactive courses, in the development of course manuals, publications and other educational material, as well as in conducting Training of Trainers (ToTs) for the NLC and project trainers. The JRP printed digital copies of all ToT materials used in various workshops since June 2002 for the NLC trainers and staff to secure the sustainability of ToTs in the future.

### Priority Task 4, *Establishment of a Professional Bar System*:

The JRP assisted the Non-Staff Council and the NLC, the implementing entity, in administering the first lawyers’ qualification examinations by providing advice in preserving confidentiality, transparency and fairness in the qualification examination process. The JRP participated in the

selection of questions and other aspects of exam preparation in order to ensure pre-exam secrecy and provided automatic grading machines that ensure the objective and transparent grading of the examination. In addition, the JRP observed the administration of the exam and provided detailed recommendations for future exams.

The JRP assisted in printing the first volume of sample judicial examination materials distributed by the Judicial Professional Committee that will enhance the transparency of the judicial selection process and maximize the opportunity for qualified applicants to go on the bench. The printing of the second volume is expected in next year.

*Priority Task 5, Ethics for the Legal Profession:*

The JRP assisted the Special Investigative Unit (SIU) and the Judicial Disciplinary Committee (JDC) by providing necessary equipment, training and training materials in close cooperation and coordination with other donors. In particular, the JRP coordinated provision of assistance to the SIU with UNDP and coordinated presentations for Otgontenger Law School and the NLC by the American Bar Association (ABA) team that conducted ethics training for the Mongolian Advocates Association. The JRP also provided assistance to the ABA and US Treasury for their forensic accounting/money laundering course for the SIU.

*Priority Task 6, Enhance the Public's Understanding of the Judicial Sector and the Rule of Law:*

The JRP in cooperation with PACT successfully conducted intermediate journalists, rural journalists' trainings that will greatly enhance their ability to effectively and professionally cover news stories related to courts and the justice sector in whole, and for Public Relations officers in justice sector institutions to build their capacity to provide timely and accurate information about the activities of their institutions.

The JRP is continuing to produce the second series of the year long "Huuliin Tsag" ("Legal Hour") TV program on the Criminal Procedure Code in cooperation with GTZ and the MoJHA and launched new JRP radio drama series that cover the same topics as the TV series for rural population that have limited access to television.

The JRP redesigned and updated its website as well as the newsletter to make both more informative and to promote understanding of the JRP's activities in Mongolia.

In other areas, the JRP's efforts at donor coordination has resulted in near integration with the activities of GTZ, the largest German aid donor, and close coordination with the World Bank Judicial and Legal Reform Project which is providing assistance to the newly established Administrative Courts and the NLC. This coordination with the principle donors involved in legal reform in Mongolia will ensure more efficient and effective use of donor resources in implementing reforms.

## A. Background and Context to the JRP's Activities

Since its inception and continuing throughout 2004, the JRP has been the largest donor-funded contributor to Mongolia's judicial reform efforts. After the democratic revolution of 1989, Mongolia faced the need to reform the government institutions designed to serve the Marxist-Leninist model for a democratic future. Attempts were intermittently made until 1999 when, with USAID assistance, Mongolian institutions and stakeholders agreed to a Strategic Plan for Reform of the Justice Sector (Strategic Plan), which was adopted by the Ikh Khural in 2000. USAID created the Mongolia Judicial Reform Project to assist Mongolia achieve the goals of the Strategic Plan. The Strategic Plan has a large number of specific objectives and tasks. However, USAID, in consultation with the Mongolian stakeholders, focused the JRP on a limited number of critical areas. These critical areas continue to evolve, but are primarily: Court Administration and Case Management, Review of Court and Justice Sector Agency Jurisdictions, Continuing Legal Education (CLE), Lawyer Qualification, Public Education and improved Ethics. These activities support USAID/Mongolia's Strategic Objective "Strengthen 'Good Governance' and Make It More Accountable," specifically Intermediate Result 2.1 "Comprehensive Legal Reforms Implemented."

In *Court Administration and Case Management*, the overall goal has been to make the judicial system more transparent and accountable. The lynchpin task has been the automation of Mongolia's courts, accompanied by changes in procedures that not only improve efficiency but more importantly transparency, accountability and access to the courts. The automation of all courts was completed in 2004. This has led to enormous increases in transparency and access as case information has become available to the public through public access terminals. Accountability has been increased with the greater speed and accuracy with which management reports are prepared and case processing and case outcome data become available. These improvements have paved the way for direct availability of case information and decisions on-line, which the JRP will work to achieve in 2005 and beyond. Work to improve the management capacity of the General Council for the Courts (GCC) has been ongoing as well. The JRP attends all monthly meetings of the GCC and provides suggestions for adjusting its decision making processes. As a result of a study tour in 2002 that took members of the GCC to the US to show how court administration bodies there worked, a number of changes were introduced, including the introduction of subcommittees to better inform the decision making process of the GCC and broaden participation in these processes. The JRP continues to help the GCC incrementally improve its management practices. The GCC is still hampered by an inadequate budget, a small and poorly trained staff which has been subject to turnover, and hierarchical management styles. The JRP continues to work on these obstacles.

With respect to the *Review of Court and Justice Sector Agency Jurisdictions*, the JRP was asked almost from the very beginning to comment on the new laws that were being drafted in 2001. The JRP provided a report on the Criminal Procedure Code, which alerted the MoJHA and the Ikh Khural to several areas where the code did not appear to live up to Mongolia's treaty commitments to uphold human rights. Most of the JRP's points were addressed in the final legislation. In 2002 the JRP contributed greatly to the drafting of the "Law on the Courts" and the "Law on the Prosecutors Office". In 2004, the JRP addressed concerns about the failure of practice to conform to the ideals expressed in the Criminal Procedure Code in areas of arrest and detention and use of the adversarial process. Now that the passage of new organic laws has been accomplished, this task will be of diminished importance in the future and will largely be incorporated into court management and other Priority Tasks. Still, it is a key element of the JRP's success that it is on the ground in daily contact with all Mongolian legal institutions and can identify and effectively respond to needs for advice and assistance that cannot be anticipated.

In *Continuing Legal Education*, Mongolia faced a situation where most legal professionals were educated under the Marxist-Leninist system. Not only did they lack training in basic concepts associated with adjudicating disputes in a market economy, they were used to thinking of the courts as an instrument of state power. While Mongolia's 1992 Constitution adopted the theory of an independent judiciary as a third branch of government, habits and attitudes of the public and the legal profession have lagged. With the passage of new laws, especially the new Criminal and Civil Codes as well as new Procedural Codes in 2002, whole bodies of new law had to be absorbed by the legal profession. In addition, legal education had consisted of academics standing and reading notes which the students were required to copy and memorize. Modern adult education techniques were unknown. Mongolia's small population created the problem that with a legal community of a few thousand underpaid professionals, there was little potential for competitive market-based trainings and even separate training systems for the different branches of the legal profession ran up against the absence of economies of scale. Conversely, Mongolia's huge geographic expanse meant that legal training was required in countryside locations that were remote and isolated.

The JRP responded to these challenges with multiple approaches. The JRP was involved in planning and drawing up the organizational papers for the National Legal Center (NLC) which for the first time created a Mongolian institution with a mandate to provide CLE to all legal professionals. Even before the creation of the NLC, the JRP worked to create a cadre of trainers proficient in modern adult education techniques and theory. Identifying key agents for change and then training them in "Training of Trainer" (ToT) classes allowed the JRP to deepen its ties to influential Mongolian lawyers and create a cadre of qualified trainers. With the creation of the NLC in late 2002, the JRP was ready to build its institutional capacity to absorb what had already been accomplished and meet its ambitious goal of retraining an entire nation's legal community. The JRP conducted a study tour for the top management of the NLC in 2003 and used that experience to help them build a strategic plan to accomplish the NLC's goals. In 2004, the JRP focused on continuing capacity building with the NLC, continuing ToTs to expand the core of trainers into new substantive areas and the creation of new courses in areas where the NLC needed outside substantive assistance.

With respect to *Lawyer Qualifications*, 2004 was a seminal year for the JRP and Mongolia. From January 30 to February 1, Mongolia administered its first lawyer qualification examination (Bar-type exam). Improving the qualification of lawyers and providing assurance to the public of lawyers' qualifications through a transparent and effective bar examination process is a key element of the Strategic Plan. The JRP had contributed extensively to the drafting of legislation that created the examination process. The JRP worked with the Non-Staff Committee representing the judges, prosecutors, advocates, notaries, bailiffs and the Public Service Council and Chaired by the Secretary of State of the MoJHA tasked with creating and administering a qualification exam for lawyers working in those fields. The JRP's recommendations were largely adopted in the preparation of the exam process. The JRP helped assemble the exam questions to assure absolute secrecy and provided grading machines to promote impartiality in the process. After its observation of the exam process in Ulaanbaatar and three of the five Aimag testing sites, the JRP wrote and published an observation and recommendations report. The examination was largely a success, but the JRP made several recommendations to improve the process. The examination will be repeated in 2005 and the JRP is planning a study tour to allow the key members of the Non-Staff Committee to observe multi-state bar examinations in the US and meet with the key people involved in such a process. The JRP will continue to provide information consultation and advice to the Non-Staff Committee to help it perfect the examination process.

In *Public Education*, the JRP enjoyed tremendous success in 2004. Public education is important because if the public lacks understanding and faith in the improvements being made in the justice system, the impact on public trust and confidence of such changes is limited, almost as if no

improvements were made at all. Public trust in the justice system is the foundation upon which the rule of law is based. Public confidence in the criminal justice system keeps people from taking the law into their own hands and increases the faith that public activities in general are conducted honestly. This faith is essential to a representative democracy. Faith in the civil justice system promotes trust in contracts and that commercial actors will abide by their contracts and conduct their business honestly. It allows reliance on the market and makes the efficient allocation of capital possible. Faith in the criminal system reduces the potential for individuals resorting to violence to resolve conflicts and reduces fear of crime. While justice sector reform has not reached the level where all of these social goods have been achieved, great progress has been made from the point where the justice system was among the least trusted public institutions in 2001.

In 2003, the JRP started working with the GTZ to create “Legal Hour,” a series of TV programs, which, in an entertaining manner, would engage the public in the process of understanding how the new legal system worked. The GTZ focused on episodes featuring civil law issues and the JRP focused on criminal procedure issues. In 2004, after the first year of programming, “Legal Hour” received an award as the most popular drama series on TV, reaching more homes than any program other than the evening news. Similar to the way that most Americans learned of their Miranda Rights from television shows, each “Legal Hour” episode portrays crimes and follows them through trials with expert commentators explaining the legal concepts involved at critical junctures. The JRP will continue “Legal Hour” in 2005 and hopefully beyond, tackling more controversial subjects and keeping the public abreast of further changes in the legal system. In 2004 the World Bank’s Legal and Judicial Reform Project that is assisting the government of Mongolia in establishing administrative courts and training the judges, initiated negotiations with the GTZ to combine its public education efforts with JRP and GTZ by funding a section of “Legal Hour” on administrative law.

The JRP is starting a radio series to reach households without TVs, mostly in the countryside. In addition to continuing the “Legal Hour”, the JRP will continue to look for other effective ways to communicate the changes in the justice system to the public through public information posters, newspaper articles and other public information material.

In addition, the JRP has conducted training for media reporters and for public affairs officers in order to improve the quality of media reporting on legal matters. The media plays a vital role in monitoring the justice system and keeping the public aware of how well it is functioning. The Mongolian media have a weak tradition of impartiality and critical thinking. Both sides, the media representatives and the institutional public affairs officers, are essential to public awareness and public monitoring of the justice system. Journalists need to be able to understand the courts’ functions and keep a critical eye on their performance while respecting the presumption of innocence and the independence of the institution and individual judges. This is a fine distinction not always mastered even in advanced democracies. Public Affairs officers have often been little more than newspaper clipping services. Instead they need to proactively engage with journalists and become reliable suppliers of accurate information about the courts and cases as well as promoters of the values of independence and ethical reporting. In 2004 the JRP conducted a second course for Ulaanbaatar journalists and a first course for rural journalists as well as a second year of training for public affairs officers. The courses were conducted with PACT, JRP’s public education sub-grantee and volunteer media experts from the US funded Knight Foundation and ABC News.

With respect to *Ethics*, the JRP has pursued both education and improved monitoring. Of course ethical behavior is key to the effective functioning of the justice sector and public confidence in it. Mongolia again has to confront its Marxist-Leninist heritage, where the concept of conflict of interest was not well developed or understood. Low judicial sector wages combined with the

increased value of cases have made temptations greater than they ever were before. The JRP helped the Mongolian judiciary write a more effective Judicial Code of Ethics in 2002. The JRP advised on the creation of a disciplinary mechanism that would be more effective. These proposals were implemented and the JRP has equipped and trained the new Judicial Disciplinary Committee. In addition, the JRP has equipped and trained the Special Investigative Unit reporting to the Prosecutor General, a new unit charged with investigating crimes by justice sector officials. In 2003, its first year in operation, the SIU investigated and sent to the prosecutors office for prosecution more cases than had been investigated in the prior 4 years. In 2004, the JRP continued to equip the SIU in cooperation with the UNDP which plans additional funding and to evaluate and conduct additional training. In 2005 and beyond, the JRP intends to strengthen the management and procedures of the SIU. If new anti-corruption legislation is passed, the JRP will work with these and new institutions to assure that the best possible practices are adopted that will support the detection of corruption without compromising the independence of the judiciary. This assistance could be crucial to Mongolia's attempts to develop effective anti-corruption mechanisms that are not subject to political abuse.

USAID's 2004-2008 Strategic Plan reflected the success that the JRP had achieved helping Mongolia enact reform legislation and begin implementing a variety of reform activities. *Implementation* is the key objective of USAID's current efforts. Strategic Objective 2 is "Strengthen 'Good Governance' and Make It More Accountable." The focus on implementation of these objectives is incorporated in the JRP's six main Priority Tasks.

The Program of the new Government of Mongolia adopted in November 2004 has identified the key areas of its activities. The main goal is to raise the quality of public service to secure the standards for ensuring human rights and security, and emphasizing open government through technology. The sub-goals are to improve the effectiveness and responsiveness of public institutions which is specified as:

- Increasing the openness and transparency of the decision making process,
- Publicizing the mission goals of all public institutions,
- Setting standards for public service,
- Ensuring the rights of citizens to information,
- Enhancing the ethics of public officials through improved ethical requirements and disciplinary mechanisms in the Law on Public Service, and
- Upgrading the qualification of public servants through continuing education.

With regard to the justice sector the Program identifies several areas such as combating corruption, crime prevention, improvement of decision enforcement, compliance of laws with international treaties and conventions, human rights, victim's compensation, codification/systematization of laws, legal information system and continuing legal education. The goals and objectives of the Government's Program complement the objectives of the JRP and USAID's 2004-2008 Strategic Plan.

In long term the JRP may focus on assisting with the implementation of specific measures of the Government Program such as making financial statements by public officials public, exploring suitable mechanisms to compensate damages caused by crime and/or wrongful activities of public officials/institutions (the JRP began in 2004 to assist the judicial sector in reviewing its policies/procedures for dealing with victims and witnesses), the conformity of Mongolian laws with international treaties and conventions that Mongolia is party to (i.e., bringing policies, procedures up to international standards) and establishing a database of the treaties and conventions, measures to increase the actual enforcement of court decisions, enhance the requirements for the qualification, skills and ethical conduct of legal professionals and creating a uniform system for their qualification and CLE.

The following section provides a detailed overview of the activities conducted in 2004 under each Priority Task.

## **B. TASK-SPECIFIC PROJECT ACTIVITIES**

The JRP's activities in 2004 revolved mainly around the implementation of the project's six Priority Tasks. The JRP made progress on all Priority Tasks as planned and advanced beyond the initially set milestones in some instances.

### **PRIORITY TASK 1: DEVELOP AND STRENGTHEN JUDICIAL INDEPENDENCE, COURT ADMINISTRATION AND CASE MANAGEMENT AT THE NATIONAL AND LOCAL LEVELS**

***Objective:** Strengthen the General Council of the Courts' (GCC) ability to provide leadership and effectively support the judicial branch and ensure efficient and transparent management of the courts. Establish and implement high standards of efficiency through technology and education to enhance the judicial process, its planning and management.*

The GCC is the government institution responsible for the administration of the courts and thus has a key role to play in instituting "good governance" in the court system. The JRP has assisted the GCC to achieve good governance and accountability by such concrete measures as automation of the courts, adoption of new policies procedures, and redesign of the information and management reports that are now possible to develop with an automated system. In addition, "softer" measures such as building up the capacity of the GCC to assess policy questions, establishing leadership networks that will help overcome the hierarchical leadership habits and creation of the capacity to study and analyze workload scientifically were all designed to change the nature of decision making and enhanced democratic governance and accountability. Also, assistance for the development of the concept of court administration and management goes to the nature of policy setting, a key ingredient in good governance. The JRP's work to help the GCC comply with The Law on the State Budget, reflects the need both to comply with the transparency in budgeting inherent in that law as well as an attempt to secure adequate funding for the courts, both of which would advance good governance.

The monitoring of GCC sessions demonstrates that the activities of the JRP have had direct impact on the approach of the GCC with regard to its policy making and administrative issues. For instance, the matter of judicial staffing of the newly established Administrative Courts has been intensely debated. In view of the fact that the workload study conducted by JRP in 2003 had shown that the rural courts had a low workload, the GCC's main concern was whether the new Aimag Administrative Court judges would have sufficient workload. Not all positions were filled as planned and suggestions were made to have one administrative judge instead of three, except in the relatively busy courts in Orkhon, Selenge and few other Aimags, and that there is no need for filling all the positions created by law. There is no consensus on how to follow the provisions of the law on Administrative Courts and yet avoid misallocation of personnel. Supreme Court interpretations or amendments to the law may be required. Furthermore, the GCC is considering the issue of transferring vacancies in the rural courts to District Courts in Ulaanbaatar to balance the workload.

The September regular session of the GCC considered and endorsed the budget of the judiciary for 2005. Several GCC members raised the issue of proper justification of the judicial budget.



There was a consensus to have a better justified budget with greater opportunity for GCC debate in the future.

Additionally, the JRP's support for maintaining judicial independence has been critical to the Capital City Administrative Court in deciding the recent election cases independently. At the official opening ceremony of the Capital City Administrative Court building the COP gave a short speech to the new judges and staff during which he applauded the independence that they were demonstrating (Attachment A).

The JRP's key tasks to help achieve this objective in 2004 included:

- Assist in enhancing the structure of the GCC to provide national-level leadership and administrative support to the courts in Mongolia
- Design a new caseload statistical reporting process and data that justify budget and human resource allocations by the GCC
- Follow-up on workload study results
- Organizing leadership networks among judges
- Compliance with the Law on the State Budget
- Review and develop uniform practices and procedures in court administration practices
- Implementation of case management system in remaining courts in Mongolia
- Continued review of Internet usage and connectivity of the courts
- Users Committee and modifications to *Judge 2003* software
- Continue records management improvements
- Automation of prosecutor's offices to improve the administration of justice
- Continued from Year Three Workplan – model Annual Report for the publication and dissemination on the activities and the workload of the courts
- Continued from Year Three Workplan – development and publishing of Court Administrator's Manual
- Feasibility study to link courts to the Unified Information System (UIS)
- Pilot project to enable judges to conduct arrest and detention hearings and other court business with distant Sums within the mandatory time limits
- Court observation as a tool for management and assessment.

Activity highlights included:

- Completion of the automated case management system in all Mongolian Courts
- Establishment of a working group to develop a comprehensive concept on court administration and management for Mongolia
- The limited workload study by the Supreme Court Research Center
- *Judge 2003* software modifications for the appellate and supervisory level courts and the newly established Administrative Courts
- Automation of two additional prosecutors office pilot sites in Dornod and Selenge
- Publication and distribution of the 2003 Annual Report of the Courts.

#### **TASK 1: Assist in enhancing the structure of the GCC to provide national-level leadership and administrative support to the courts in Mongolia**

With the aim to assist the GCC in developing and implementing modern court administration and management principles that ensure efficient, transparent and democratic court operations in Mongolia, the JRP assisted with the creation of a working group, which was formally established by a Resolution of the GCC including representatives of the GCC Office, judges and court

administrators of the Capital City and several Aimag Courts. To assist the group in its work the JRP provided:

- 1) *Translations of background material* from the US and other countries on modern court administration and management;
- 2) An introduction by a lecturer from the Mongolian Finance and Economics School into the *basics of management*;
- 3) *A study tour on court administration and case management* in order to facilitate the process of the concept development for the three members of the working group: Supreme Court Justice Zandraa, Supreme Court Administrator Erdenechuluun, and Capital City Court Administrator Dagva. The study tour provided the participants with in-depth information and hands-on experience of modern court management and administration in the US. The JRP summary report on the study tour is provided in Attachment B. The study tour participants developed a report with suggestions to introduce certain practices in Mongolia and submitted it to the GCC. As a result of the suggestions submitted, the GCC tasked the working group with the development of a comprehensive concept for implementation.
- 4) *A daylong session facilitated by local and US project staff to introduce a framework for developing the concept and to brainstorm on how this concept would need to be reflected at different court and institutional levels.* As a result, the basic framework for a concept for modern court administration and management was created and a draft questionnaire to gather information on the current situation of court administration in Mongolia and suggestions for its improvement was sent out to 31 Aimag, Soum and Inter-Soum Courts as well as the Capital City and the Supreme Court. The survey results were incorporated into the concept of court management. The working group informed Chief Justice Ganbat of the progress of the concept development upon his request. The Chief Justice shared his thoughts and expressed his full support for the work.
- 5) *Follow up recommendations* by local and US project staff on the progress of the concept development and timelines.

*Results and future implications:* The development of a comprehensive concept of court management and administration for Mongolia is a significant step towards creating modern management and administrative structures for the courts. The working group took ownership of the development process and its members have gained significant insight into the many issues involved. This is the first time that the courts in one of the post-Soviet states are demonstrating the will to take such a fundamental approach to changing the way they are operating. The development and creation of this concept will be the blueprint for changing the court system. Its implementation will require priority setting and assistance for the implementation of the most urgent court management components. The full implementation of the concept is likely to take several years. Building on these efforts, in 2005, the JRP will initially conduct a workshop on court administration and management principles for the GCC members and support staff to enhance their understanding of the changes to court administration indicated by the concept. This will be followed by a regional training for rural judges and court staff to ensure that all judges and court staff have clear understanding of the division of authorities and responsibilities between judges and administrative staff introduced by the new concept.

## **TASK 2: Design a new caseload statistical reporting process and data that justify budget and human resource allocations by the GCC**

The availability of solid statistical data is essential to develop well-grounded justifications for budget requests and to streamline resource allocation. The current approach to collecting caseload statistics should be adjusted and the design of the new statistics must be compatible with, and integrated into the automated case management software for the courts and prosecutors' offices. The automation of all 61 courts in Mongolia was completed in 2004 and current practice

shows that the task of designing a new statistical process and collection of reliable data to justify the courts' budget and human resource allocation will require that courts become accustomed to working with the *Judge 2003* software. Therefore JRP has postponed this activity until next year.

### **TASK 3: Follow-up on workload study results**

In 2002 a working group consisting of representatives of the judiciary and the procuracy supported by JRP completed intensive preparatory work to conduct a comprehensive weighted workload study for the courts and prosecutors' offices in Mongolia. The study itself was conducted in May-June of 2003. The results of the study showed that trial courts, particularly in rural areas were adequately staffed and that the rural appellate courts were considerably over-staffed. Results for prosecutors did not indicate serious over-staffing but the trends were similar to those in courts. Despite the politically sensitive nature the results of the workload study were given a positive consideration by the GCC, the Supreme Court and the General Prosecutor's Council. To validate the findings the Supreme Court repeated the workload study involving an increased number of Supreme Court Justices in December 2003. This generally confirmed the findings of the first study. In order to further verify the results, the Supreme Court Research Center (SCRC) conducted a limited workload study at the three busiest District Courts (Songinokhairkhan, Bayangol, Bayanzurkh) in April 1 – May 12, 2004. The JRP entered into a MoU with the Supreme Court and signed a contract with Sant Maral to facilitate training for Supreme Court Research Center staff on using statistical software to process the results of this workload study on their own. Additional assistance was provided for analyzing and evaluating the results of the limited study in three District Courts.

*Results and future implications:* The judiciary and the procuracy demonstrated their willingness to develop into efficient modern institutions by analyzing the study results not only for more rational allocation of resources but also for assessing the current management to enhance efficient operations. This is also an achievement in capacity building and in ensuring the sustainability of transferred skills and expertise since the SCRC now has the ability to not only apply modern methodologies and software in conducting this type and other studies but also to clearly define the study purpose and collect useful and practical data. The JRP will provide technical assistance in analyzing and evaluating the results and in incorporating the recommendations into policies and procedures.

### **TASK 4: Organizing leadership networks among judges**

A consultant on independent judicial leadership familiar with the Mongolian legal system and specialist in issues related to strengthening judicial associations met with several judges and other stakeholders, individuals who support judicial leadership improvements and are willing to expand the constituency for reform. He provided recommendations intended to support the agents for reform in developing processes and policies that they believe would help institutionalize change on a broader and more sustainable scale (Attachment C).

*Results and future implications:* Initial steps have been taken to identify change agents and develop an informal network of innovators and independent judges aimed to develop, promote and institutionalize changes achieving greater independence for the judiciary. The JRP will follow up on the consultant's recommendations in 2005.

### **TASK 5: Compliance with the Law on the State Budget**

The JRP has been working with the GCC to build its capacity to develop fully justified budgets as a means of obtaining sufficient funding for the judicial sector. The introduction of the new Law on the State Budget and the Public Sector Management and Finance Law in July 2003 established

much more detailed budget development processes, setting “output” measures for each budget unit to make state finances more results oriented. The JRP communicated with the ADB Public Management Reform Program, which had spearheaded the development and implementation of the new law, to locate a budget consultant familiar with this type of public finance legislation and judicial sector experience. Finding an expert with the appropriate experience and background has proven difficult however.

In the interim, the JRP Program Director, conducted an introductory session for judges, court administrators, accountants, GCC staff and administrators of prosecutors’ offices on developing judicial sector outputs as required by law and explained the Australian, South African and New Zealand experiences in defining judicial outputs. She informed the participants that New Zealand, the country after which the new budget law is modeled, is discontinuing the use of “outputs” to measure the judicial sector because they can lead to placing emphasis on developing practices that focus on achieving certain scores and numbers instead of competent decisions. She also provided examples from other countries that treat the judicial budget separately from the executive branch.

*Results and future implications:* There is a need to build consensus on the separate treatment of the judicial budget as it is essentially impossible to measure and define judicial outputs without impeding judicial independence. In view of the fact that the judiciary is facing problems in the application of the new Law on Public Sector Management and Finance the JRP will continue to assist the GCC in redesigning its budgeting process in addition to developing alternative proposals for fiscal support that will ensure the financial independence of the judiciary.

#### **TASK 6: Review and develop uniform practices and procedures in Court Administration practices**

The JRP staff has observed the usage and maintenance of equipment to determine the best practices for the administration and met with Supreme Court, GCC members and staff, and agreed that the Users’ Committee will develop a manual on the usage and maintenance of the equipment. GCC assessed the usage of equipment by the courts, based on which the GCC endorsed a regulation requiring implementation of new uniform procedures for the efficient use of equipment and software.

*Results and future implications:* The uniform procedures are essential for streamlining the routine operations to get the best possible outcome from the automation. The next step will be to review the official procedures in the context of the new concept of court administration and management. The JRP will assist the GCC in developing and adjusting the uniform practices and procedures according to circumstances.

#### **TASK 7: Implementation of Case Management system in remaining courts in Mongolia**

In 2003, over 85% of the total Mongolia court caseload has been automated and the completion of this effort in 2004 included automation of the Supreme Court, the Supreme Court Training Center, the remaining courts in the Western Aimags. The automation in 2004 involved 21 individual courts, 107 judges and approximately 80 judicial staff and followed the standard procedures and methodologies of pre-installation planning and training applied before.

The COP personally observed the automation in several Aimags emphasizing to the judges the importance of transparency and the benefits for the budget that the superior reporting capability would provide. He also stressed that the goal of the US in donating the automation equipment is to enhance the critical role the courts play in the rule of law and democracy. Greater transparency, which the equipment allows, and avoidance of even the appearance of impropriety

are essential for the courts to gain the public support that would insulate them from infringements on their independence.

The JRP staff audited the equipment of several courts automated in 2003, updated the inventory lists and submitted copies to the court management and the USAID. The JRP will continue to conduct random audit of selected courts to determine whether the courts continue the normal operation of the public access area, the use of random case assignment and proper use and maintenance of computer equipment, i.e., the minimum requirements of the JRP Automation Agreements.

*Results and future implications:* The GCC endorsed a Resolution creating a computer specialists position within the GCC, an important step towards sustainability of the automation process. The computer specialist is traveling to the automated courts, updating the software, and providing consultations to the judicial staff.

In order to increase the usage of the public information terminals, the JRP will conduct training for the public relations officers operating the public access terminals and provide posters and signs identifying their use in order to make sure that the terminals fully meet their potential for providing transparency.

The JRP will continue to assess automation needs of the judicial sector. For example, since the World Bank project will automate only the Supreme Court Administrative Chamber, the Capital City and Darkhan-Uul Aimag Administrative Courts, the JRP will automate the remaining Aimag Administrative Courts to provide the interconnectivity of courts and implement the UIS.

#### **TASK 8: Continued review of Internet usage and connectivity of the courts**

As all courts now are automated, network communication between the GCC, the Supreme Court and the courts becomes more of a necessity than just providing a tool for legal research. However, the limited budget of courts and prosecutors' offices does not provide for permanent connections. The difference of Internet usage between urban and rural courts remains the same primarily due to the relatively high line cost in rural areas. Correspondingly, the Internet is used mainly by management because making Internet available through the local network slows down their speed and increases the phone line usage time. This will remain a problem until the issue of adequate court budgets is resolved and/or local phone networks improve and become more cost-effective. However, with the aim of building capacity for research and increasing the use of the Internet as a research tool, JRP distributed the "Website Encyclopedia" to the GCC Office, the Supreme Court Research Center and the GPO as a first step towards building on-line research capabilities within the judicial sector.

In addition, the Supreme Court and the GCC are interested in establishing a website to inform the public about their roles and activities and as a communication and information tool for all courts. Posting all court decisions on these websites would significantly increase transparency but this step does not yet have the support of the Chief Justice of the Supreme Court who will allow posting just selected cases only.

In the meantime, the JRP agreed to assist in creating a database of decisions by the new Administrative Courts provided that they will be posted on the web. The Chief Justice fully endorsed this approach. The JRP determined the scope of work to implement this project and a software engineer developed the software for this database.

*Results and future implications:* While the basic conditions for e-communications and information access via e-mail are in place, high operating cost and lack of experience impede their use. The

JRP will continue to monitor the existing e-communication levels and research whether alternatives are available to link the GCC to the Aimag and District Courts and explore ways to induce the commitment of the Mongolian Government to fully fund this approach, and to coordinate with other donors. Courts will be provided with sufficient on-line phone and Internet time in 2005 to update and access a nationwide case database.

#### **TASK 9: Users' Committee and modifications to *Judge 2003* software**

After the automation of the Supreme Court, the Users' Committee was mandated to continually review the functionality of *Judge 2003* software and outline modifications to reflect the practice of the supervisory level court. The JRP contracted with a software developer who completed the modification for the Supreme Court. In addition, the Committee discussed the latest updates to *Judge 2003* software, the difficulties experienced during the application of the software due to changes in the law. It issued a recommendation to formally endorse the use of the *Judge 2003* software by courts and to develop a manual for the software. Based on the Users' Committee's recommendations, the GCC passed a resolution requiring the use of the software as an official tool for case management and approving the development of a user's manual. The user's manual is being developed with the assistance of the JRP staff. In addition, the JRP is working with the GCC and the Users' Committee to unify the procedures for usage and maintenance of equipment to ensure efficient utilization.

*Results and future implications:* The responsibility to continually review and update the software in order to comply with changes in the legislation is effectively carried out by the Users' Committee. Hereafter the Committee will need to review the software with regard to the reporting features so that it will be congruent with the design of the new statistics to be developed with the assistance of the JRP in 2005.

#### **TASK 10: Continue records management improvements**

Since 2003 automated courts have been provided with case folders to implement an improved records management process. This activity has proven to be cost effective and efficient in improving the integrity of the filing system, reducing the file storage area and in improving the records retrieval. The JRP provided case folders to all newly automated courts in Bayan-Ulgii, Khovd, and Uvs Aimags to improve their records management capacities.

*Results and future implications:* This is a cost effective approach to improve access to files, reduce the danger of "loosing" files in an inefficient system, and more effective use of storage space. Improved records management has further become a new criteria for court performance evaluation. The JRP will continue to advise the courts on improving their records management capacities. This will include a seminar on improvements to the retention policy for courts. Involving relevant representatives of courts and prosecutors' offices the availability of premises in rural courts and the impact of new procedures on retention will be discussed.

#### **TASK 11: Automation of prosecutor's offices to improve the administration of justice**

The JRP has successfully completed the automation of the courts that has changed their daily work procedures from an almost entirely manual operation to an automated one. As a result an imbalance in the processes of the criminal justice system between the courts and the prosecutors' offices has developed.

In 2002, four pilot sites, the Capital City, Songinokhairkhan District, Darkhan-Uul and Dundgovi Aimag Prosecutors' Offices, were automated. In 2003, the JRP and GTZ jointly funded a new case management software development for the prosecutors' offices. A user's committee

provided direct input to the design and development of the new *Prosecutor 2003* software. In 2004, the JRP, GTZ, and GPO, concluded a Memorandum of Understanding to provide additional training and training material on *Prosecutor 2003* in four pilot prosecutors' offices (Attachment D). In addition, the JRP assisted the GPO in holding an additional training session in Ulaanbaatar for newly recruited support staff and covered part of transportation costs for trainees from remote western Aimags.

Two additional pilot prosecutors' offices in Selenge and Dornod Aimags were automated and their staff trained in 2004.

The JRP assessed the usage and maintenance of hardware and software at the pilot Capital City and Songinokhairkhan District Prosecutors' Offices. The assessment revealed that the main problems relating to the software were due to incomplete filing and incorrect data entry by prosecutors. Additional training and a user's manual should resolve these issues.

*Results and future implications:* The GPO pays much attention to ensuring that the prosecutors acquire adequate skills to use the equipment to its full potential. Computer skills and the ability to use the equipment have become part of the performance evaluation system for all staff. Still, problems with data entry and efficient use of the equipment continue to persist in some offices. This undermines the usefulness of the data for management purposes. This situation requires follow-up. In fall of 2004, the JRP sent out questionnaires to the six pilot sites to assess whether they are efficient in making use of the automation features. In addition, the JRP staff will evaluate other prosecutors' offices infrastructure, and their ability to comply with JRP established criteria for automation. The JRP will also review the functionality of the software and its compatibility with the courts software.

#### **TASK 12: Continued from Year Three -- Model Annual Report for the publication and dissemination on the activities and the workload of the courts**

The 2002 Supreme Court Research Center's Annual Report was published in January 2003 for the first time with JRP funding and was delivered to every court, prosecutor's office, legal aid bureau, police office, law school, library, NGO working in the legal sector, ministry and governor's office. The report represents a step toward making the judiciary more open and transparent. After the first publication, the Supreme Court Research Center requested funding for the publication of the 2003 Annual Report. The Research Center and JRP staff reviewed the print layout of the report to ensure the consistency of the design and layout with the 2002 Annual Report. Seven hundred copies of the report were printed and distributed to courts, NGOs working in the legal field and all relevant government institutions.

*Results and future implications:* Rural courts (Dornod Aimag) reported that the Annual Report was of great assistance in measuring and improving court services. With the purpose to ensure the sustainability of Annual Report publications in future the JRP will oversee that the Supreme Court Research Center fulfills its commitment to fund the 2004 Annual Report with the revenue generated from selling the previous reports.

#### **TASK 13: Continued from Year Three – development and publishing of Court Administrator's Manual**

The JRP commented on the first draft of the Court Administrator's Manual that was submitted to JRP and USAID for review. The JRP suggested: 1) to attach all the available templates in the back of the manual; 2) since automation is aimed at eliminating manual processes to improve the efficiency of court operations, there is a need to emphasize the importance of its application in daily operations. The participants to the study tour on court administration and management also

reviewed the manual to incorporate the principles of the court administration and management concept.

*Results and future implications:* The Court Administrator's Manual will be an important step to standardize improved court administration and management processes. JRP will continue to provide recommendations on the content and support the publishing of the court administration manual that will assist all courts to sustain the new processes.

#### **TASK 14: Feasibility study to link courts to Unified Information System (UIS)**

The World Bank Judicial and Legal Reform Project (JLRP) is funding a UIS that will link all the national level justice sector institutions in Ulaanbaatar by fiber optic cable and will place all laws and regulations onto the UIS. This will enable the courts to decide cases based on a complete knowledge of laws and regulations and it will open the opportunity to share data and make all relevant court information available to the public.

The JRP met with the JLRP to discuss how to network the courts into the UIS. The World Bank will connect some UB District Courts with their fiber optic network and are thinking of giving the Songinokhairkhan District Court a special connection. The connection is anticipated to be completed in December 2004.

In order to build upon this opportunity, as mentioned above, the JRP will provide financial support for setting up the Supreme Court website displaying information on resolved and pending cases. In addition, the JRP has designed software for the Administrative Courts that will be ready to link to the UIS when it becomes fully functional.

*Results and future implications:* Considering that the UIS is still being developed, no results can be reported. However, reactions from the main stakeholders indicate an increasing willingness to openly share information that in the past was kept secret. Developing an open and public accessible information environment will be a long-term task.

#### **TASK 15: Pilot project to enable judges to conduct arrest and detention hearings and other court business with distant Soums within the mandatory time limits**

The JRP planned to study the technical and legal feasibility of video conferencing methods to enable timely arrest and detention procedures in remote Aimags with the purpose of conducting a pilot project in the future. In order to develop information for the assessment the JRP collected information on the projects funded by other donors. The Information and Communication Technology Training Center of the Technical University of Mongolia installed distance education equipment with a grant from the Government of India over a year ago. This equipment allows video conferencing between Ulaanbaatar and Aimag distance education centers. Currently, twelve Aimag centers have distance-learning centers and five more are being equipped. Further, the Soros Foundation completed its evaluation of the feasibility of video conferencing in the Soums (Attachment E). Both reports confirm research of the JRP that the potential for video conferencing between Ulaanbaatar and Aimag Centers has been developed, but the potential for video conferencing between Aimag Centers and Soums is virtually non-existent, and it would be expensive to develop and given the small number of other potential users to cost share, and the on-line time expenses would be prohibitive for judicial budgets. This indicates that unless alternative users can be found in the Soums, at this time, video conferencing would not be economically sustainable for the justice system. However, technological developments are occurring rapidly and when competing satellite providers come on line, costs may fall dramatically.



*Results and future implications:* Taking into consideration the new Government's focus on the information technology sector as a means for economic growth and its commitment to provide the infrastructure, this pilot may not be feasible this year, but it should be reviewed in future years. The JRP will explore alternative measures that are practicable to assist the distant Soum courts to conduct the arrest and detention procedures within the mandatory time limits.

### **TASK 16: Court Observation as a Tool for Management and Assessment**

To provide the courts with information about the public's perception about how the courts should work and their effectiveness that can be used by the courts to enhance their management and operations, the JRP negotiated a contract with The Asia Foundation (TAF) to implement a court observation activity.

The JRP staff met the, TAF Law Programs Officer who is designing the court observation project, to provide background information on the legal and judicial systems in Mongolia and the major problems within the judicial system to enable TAF to develop a monitoring mechanism suitable for Mongolia. After consulting with JRP, TAF contracted with the Otgontenger Law School to conduct trainings to build the necessary capacity among the people, organizations and/or networks that will be involved in the court observation program as outside observers. The TAF consultant from Philippines came to Mongolia in fall 2004 to design the training. Training manuals and checklists were developed and approved by key stakeholders. The program was explained to a meeting of all Ulaanbaatar District Court judges and it was enthusiastically embraced by them as a means of improving the courts public image. If the trainings are successful, the actual court monitoring will begin in 2005 as envisioned.

*Results and future implications:* The full implementation of this project will be in 2005. The potential results should be improved understanding by the courts of the public's perception that will be used to make management changes to improve the courts and improve the public's perception.

### **PRIORITY TASK 2: RE-EXAMINE COURT AND RELATED JUSTICE SYSTEM AGENCY JURISDICTIONS**

*Objective:* Facilitate a consensus defining important new concepts and new roles for justice system agencies among the legal community and stakeholders. Promote the enactment and implementation of laws and regulations consistent with these consensuses.

When the JRP started its work, there was a plethora of new concepts being embodied in proposed legislation. Most of this legislation would come into effect in 2002. As the legal system strove to cope with the changing roles of the prosecutors, courts and advocates, confusion, duplication and overlap were inevitable. Good governance and accountability are impossible to achieve where such confusion exists and laws are either poorly drafted or ignored in practice. Initially, the JRP focused on improving the draft laws. Since 2002, the JRP has focused on improving the way the laws are implemented. In this respect the JRP looked at the critical areas of arrest and detention procedures and the adversarial process. The JRP also attempted to strengthen the private bar, which is the weak link in the interlocking entities participating in the justice system process and essential for a robust justice system.

The tasks identified in the 2004 Workplan included:

- Creation of a joint manual on arrest and detention procedures

- Symposium on the Criminal Procedure Code provision on the adversarial process and its implementation in practice
- Assistance to Voluntary Lawyers Associations.

Activity highlights included:

- Supreme Court interpretation clarifying the grounds for arrest in “urgent circumstances”
- Recommendations for amendments to the Criminal Procedure Code on the arrest and detention provisions and on the adversarial process submitted to the MoJHA
- Draft of a joint regulation for the courts, prosecutors’ offices, police and Court Decision Enforcement Agency on arrest and detention procedures
- Consensus among a wide range of stakeholders on the implementation of the adversarial process to improve observance of the rights of the accused/defendant.

In addition to the tasks identified in the Workplan, the MoJHA requested that the JRP form and facilitate a focus group on the implementation of the Civil Procedure Code. The JRP involved the GTZ because of their work on the Civil Code and its new book interpreting the Civil Procedure Code. This focus group is proceeding. This followed his prior request for a review of the code by an American practitioner to determine the causes of delay and lack of finality. The JRP referred this request to the American Bar Association, which located a volunteer to write the review which should be finished before the end of 2005.

### **TASK 1: Creation of a joint manual on arrest and detention procedures**

The JRP held a workshop with representatives of courts, prosecutors, investigators and inquiry officers on the implementation of the arrest and detention procedures contained in the new Criminal Procedure Code. Problems were discussed and several steps to remedy them were agreed to:

- The need for Supreme Court interpretations to clarify and/or define several provisions
- Development of recommendations to the MoJHA to draft amendments to certain sections of the Criminal Procedure Code
- Drafting joint regulations, including operational procedures, for the courts, prosecutor’s offices, police and Court Decision Enforcement Agency
- Development of a joint manual for judges, prosecutors, investigators, inquiry officers and court decision enforcement officers on arrest and detention procedures.

The JRP signed a MoU with the Supreme Court, GPO, and MoJHA to ensure their participation in the creation of the documents as training and procedural guides when adopted. Each agency designated experts who formed a working group on arrest and detention procedures. The JRP provided recommendations to the drafting of amendments to the procedural code and for interpretations. With the purpose of providing recommendations to the drafting of the joint regulations and the development of the manual the JRP staff visited the Police Inquiry Office, the Prosecutor’s Office, and the Court of the Ulaanbaatar Chingeltei District to observe and discuss arrest and detention procedures and the use of standard forms and orders. These interviews, plus others conducted by JRP staff (see Attachment F), had shown the need for uniform procedures and forms that will assist in the automation of record keeping and allow for improved collection of statistical information about criminal cases.

In addition, the COP met with the working group and presented the JRP’s concerns about the lack of a separate “court order” for arrests. Currently, the practice is for the court to sign the investigator’s request. The GTZ cooperated by providing a German lawyer who briefed the working group members on arrest procedures in Germany. Most of the working group did not

think it was possible to have the judge issue a separate decision without amending the law. However the group shared the concern that without such a “decision” it was impossible to seek review of the arrest decision by a higher court. Further discussed was the need to document in the joint regulations the rights of the advocate and to indicate who had the responsibility for giving notice to the arrestee’s lawyer. Minister of Justice and Home Affairs did confirm that he had envisioned “some kind of hearing” with the advocate present during the drafting stage of the law.

In July the JRP arranged a meeting of the working group with O. Zandraa, Supreme Court Justice, who presented his observations of the arrest and detention procedures during the court administration and management study tour to the US. After a brief overview of what he had observed in US he pointed out several issues such as 1) the issuing of warrants as a separate court document, 2) the judge’s authority to reverse his/her decision or to impose other restriction measures, and to monitor the process of detention, 3) the thorough examination of the case files and the evidence provided by the police, 4) the right of the arrestee/detainee to be heard or to notify his/her lawyer, 5) the availability of judges specifically designated to issue only warrants and not have to hear other cases at least in the Capital City and District Courts (in order to balance the workload these judges could be in charge of administrative violations). He recommended that the working group, in developing the joint regulations, should consider international best practices and try to incorporate those that ensure human rights and are practicable in Mongolian circumstances, and if necessary to propose amendments to the relevant laws.

The working group prepared recommendations for amendments to the Criminal Procedure Code on the arrest and detention provisions that were submitted to the MoJHA official responsible for submitting recommendations to the Cabinet and Ikh Khural. In addition, the working group provided the Supreme Court with suggestions and drafting assistance for its interpretation of the grounds for arrest in “urgent circumstances.” The JRP made a number of suggestions aimed at assuring that the recommendations met internationally recognized human rights standards. All of the suggestions were accepted and the Supreme Court adopted the new interpretation.

In addition, the group completed the draft joint regulation and is considering proposing additional amendments to the Criminal Procedure Code on issues that had arisen in the course of developing the manual. Specifically on: 1) arrest and detention warrants issued as separate court documents; 2) “hearings” for issuing warrants; 3) process of appealing warrants; 4) process of lodging complaints; and 5) establishing of a unified records system.

The COP suggested reviewing the joint regulation and the possibility of incorporating enough detail in the regulation itself to accomplish the objective of a training manual. The draft will be circulated among a large pool of stakeholders including human rights groups and a working group will be formed to resolve any differences. Publication and distribution of the manual will be undertaken with other donors, particularly UNDP, to reach a broader range of stakeholders, including the police.

During the third quarter, this activity slowed down because the working group was waiting for the MoJHA’s final draft amendments to the Criminal Procedure Code to be submitted to the Ikh Khural. The group had to identify whether the joint regulation/manual would be developed within the framework of the existing legislation or compliant to the proposed amendments to the relevant laws. The MoJHA draft amendments were circulated in November and the working group is considering them.

*Results and future implications:* The recommendations of the working group and the JRP were adopted in the Supreme Court’s new interpretation. As a result of the new joint regulation and manual, the group will design unified forms that will assist not only in the automation of record keeping and improving the criminal case statistics but also in using them as a monitoring tool.

The publication of the manual will greatly contribute to improving the arrest and detention processes.

## **TASK 2: Symposium on the Criminal Procedure Code provision on the adversarial process and its implementation in practice**

Mongolia adopted a European continental style Criminal Procedure Code based largely on the German and Russian models and incorporated aspects of the adversarial process. Practitioners have confirmed the existence of problems with implementation of the adversarial process. An article in a professional journal recently questioned the workability of the adversarial process within the current legal framework.

To address this issue, the JRP sponsored a symposium on Mongolia's experience with the adoption of the adversarial process. The purpose was to discuss possible ways to overcome the difficulties in implementing the Criminal Procedure Code. Ways to deal with the difficulty in implementing the provisions on adversarial process included concentrating on re-training to promote proper implementation within the framework of the existing laws or returning to the inquisitorial system with other safeguards for human rights of suspects/accused. Several experts agreed to conduct studies and present their findings at the symposium, including B. Chimid - nationally recognized legal scholar, D. Zumberellkham, PhD, Deputy Dean of the Police Academy and Head of the Criminology Sector at the NLC, B. Bat-Erdene, PhD, Deputy Dean of the Police Academy, S. Batdelger, Chief Judge of the Capital City Court and D. Bayarsaikhan, Head of the MoJHA Legal Policy Department. The JICA and the German donor organizations that have worked on the Codes were asked to present their perspective.

In preparation for the symposium surveys on the current application of adversarial principles at the inquiry, investigation (225 criminal cases reviewed and 178 investigators, 158 lawyers and 226 suspects/convicts interviewed) and trial (48 hearings observed and 350 judges, prosecutors, advocates and citizen's representatives surveyed) stages were conducted. The results indicated that judges felt that they could not be as passive as they were supposed to be, because they perceived prosecutors and advocates to be unprepared, while prosecutors and advocates often felt that judges were not allowing them to exercise control over litigation. The symposium helped create a consensus on how the purpose behind the adoption of the adversarial system, improved observance of the rights of the accused, can be accomplished. Stakeholders felt that in addition to amendments and modifications to the statutory provisions more training was required as well as such minor technical improvements as the availability of copying machines and rules to require investigators and inquirers give advocates access to detained clients and investigation files. The latter may be included in the joint rules on arrest and detention. The presentations will be published with a summary of the discussions and if possible a set of conclusions that can be circulated to lawmakers. The JRP will follow up with assistance to the criminal justice system to implement the provisions of the adversarial process compliant with the international human rights standards. This will involve further training on trial skills but with the focus on the professional duties and ethics of all branches of the legal profession.

*Results and future implications:* The results of the symposium are being used to guide the working group on arrest and detention in drafting joint orders and procedures. Future trainings will be designed to focus on issues the stakeholders identified as having the greatest need, particularly criminal defense attorneys.

## **TASK 3: Assistance to Voluntary Lawyers Associations**

Among the countries making the transition to democracy and a market economy, several lawyers associations have sprung up, appealing to younger lawyers who have the greatest interest and the

most to gain from transforming the practice of law. The JRP identified the Mongolian Young Lawyers Association (MYLA) as potentially being able to meet the needs of lawyers in private practice and not being politically partisan. After reviewing the Association's program for 2004 and inspecting its new offices the JRP signed a MoU and loaned a computer and printer, which will be permanently transferred to the MYLA if they demonstrate that they have become a non-political, membership-driven lawyers association, providing free representation to the public and professional growth opportunities to young lawyers.

*Results and future implications:* The JRP observed the Association's efforts to develop as a non-political membership-driven organization, especially during the critical election period in June. While not overtly political, the organization did not make progress in becoming a membership driven organization able to address issues of qualification of members, ethics, and CLE. In light of the failure to develop as a membership organization and the activities that do not coincide with the JRP's priorities, it was decided that it was not appropriate to bring a consultant to Mongolia this year to work with the MYLA. The JRP will continue to closely monitor the organization. The technical assistance to help the organization address issues of qualification of members, ethics, and CLE is still envisioned if the organization succeeds in developing into a viable organization for all younger members of the profession.

### **PRIORITY TASK 3: DEVELOP A CONTINUING EDUCATION SYSTEM FOR ALL LEGAL PROFESSIONALS**

*Objective:* Build a system that will support judges and lawyers in adhering to rule of law, exercising independent judgment, and fostering a climate conducive to a free market economy.

One of the greatest impediments to strengthening the rule of law in the courts has been the poor training and experience of Mongolian legal professionals. This is not surprising given the number of new concepts embodied in the Constitution and new laws. The entire Mongolian legal environment has changed since most lawyers went to school. Poor training and understanding lead to poor advocacy and poorly decided cases. This is the antithesis of good governance. Thus, from the beginning the JRP has sought to equip the Mongolians with the ability to gain the training that they need to make their legal system work effectively. The JRP has done this by strengthening the capacity of the National Legal Center (NLC) to retrain all legal professionals and well as create highly qualified trainers and individual courses in areas where outside assistance can be of particular importance because they are new to Mongolian jurisprudence.

The JRP's 2004 activities focused on efforts to increase capacity among the Mongolian stakeholders, particularly the NLC, in close cooperation with the GTZ and other donors as appropriate.

The tasks identified in the 2004 Workplan included:

- Present Training of Trainers courses (ToTs)
- Develop a continuing education curriculum for judges
- Develop alternative dispute resolution (ADR) training
- Develop creative, interactive judicial ethics courses
- Motivate improved decision writing by judges
- Develop a continuing education curriculum for lawyers
- Cooperate with the GPO, the Mongolian Advocates Association (MAA), the NLC and other relevant stakeholders to develop a trial skills course for prosecutors, advocates, and judges
- Train prosecutors and advocates on effective courtroom communication
- Assistance to the Mongolian Advocates Association (MAA)

- Support the establishment of the NLC through provision of technical assistance on organization and management
- Support planning retreats for the NLC Governing Board and General Education, Judicial Education, Prosecutors, and Advocates Subcommittees
- Development of distance education programming
- Assist in design of a CLE record keeping system
- Development of NLC course manuals and publications
- Help NLC develop a bar review course
- Develop additional written educational materials.

Activity highlights included:

- Basic and Advanced Courtroom Communication Skills ToTs
- Introduction of alternative dispute resolution (ADR) training
- Introduction of creative, interactive judicial ethics courses
- Manual establishing standard for decision writing by judges
- CD-ROMs with the consolidated ToT materials for the NLC trainers and staff
- Continual technical assistance on organization and management to NLC
- Assistance in the development of NLC course manuals and publications
- Assistance in the development of additional written educational material.

### **TASK 1: Present Training of Trainers courses (ToTs)**

The results of the evaluations of the 21 courses conducted in the Aimags in 2003 (Attachment G) have shown that the courses were as good as can be expected being taught by new, local trainers, but not as good as the 2002 courses taught by the original JRP trainers. In addition, as the evaluation results indicate that the audiences are getting more discerning as they take more courses. Thus the JRP conducted additional ToTs to improve the teaching quality:

**Basic ToT** – At the request of the NLC the JRP conducted two half-day Basic ToT workshops for NLC trainers who had never attended a ToT and for legal advisors from government offices in the Aimags.

**Advanced ToT** – The JRP conducted an Advanced ToT for 25 NLC and JRP trainers. The topics included advanced adult learning theory and making audio visual aids through PowerPoint. In contrast the regional ToTs focused more on use of overhead transparencies and low-tech audio visual aids since few Aimags have the capacity to run PowerPoint equipment.

Following the JRP's consultant suggested that the trainers need more in-depth, hands-on training in the use of PowerPoint and recommended more follow-up contact with content experts in all areas to help the trainers adapt the original material to Mongolian needs (Attachment H).

**Regional ToTs** – The regional ToTs and regional courtroom communication courses (see Task 8) were combined into one as they were for substantially the same audience. The regional ToTs for Aimag trainers were conducted in Uvurkhangaï, Khuvsgul and Dornod Aimags. The topics included courtroom communication, civil and criminal law, and ToT. The trainers used a courtroom communication video produced by JRP and NLC to depict examples of good and inadequate communication in the courtroom. JRP staff monitors were pleased by the quality of the regional ToTs and by the improvement in practice teaching by the trainers. The Aimag trainers successfully presented the local courses in October 2004. The course materials were well received and scored highest in the overall evaluation of the last year's courses.

**ToT Materials Publication** – The JRP produced CD-ROMs with the consolidated ToT materials used in various workshops since 2002 for the NLC trainers and staff. Trainers can copy and edit the CDs for future courses. This will ensure sustainability of ToTs.

*Results and future implications:* The JRP successfully created a pool of Mongolian trainers that are knowledgeable in adult learning techniques and skilled trainers. This group of trainers and the ToT material are expected to allow the NLC and local trainers in the Aimags continue the development of additional trainers and quality training material. In the future, the JRP could continue assisting the NLC in perfecting the skills of the core faculty of trainers who will then take on the responsibility of training local trainers. The regional trainings could be supported by the Mongolians if they are thoroughly scheduled and coordinated with the respective institutions through the NLC subcommittees to combine the resources in order to increase the cost effectiveness and sustainability in long term.

## **TASK 2: Develop a continuing education curriculum for judges**

The NLC completed focus groups on the judicial curriculum during winter 2003-2004. The results prioritized topics of interest to judges, prosecutors and advocates. They were distributed to the appropriate education subcommittees of the NLC, and the subcommittees used them in determining topics for courses.

The JRP will continue to advise the NLC and the GCC on implementation and refinement of the judicial curriculum for beginning, intermediate and advanced judges.

*Results and future implications:* In 2004, the NLC developed a successful working relationship with the Judicial Education Subcommittee and incorporated the Subcommittee's suggestions on topics and trainers into the judicial education curriculum. This cooperation will enhance the likelihood that judicial education will continue after the JRP and other donors are gone.

## **TASK 3: Develop alternative dispute resolution (ADR) training**

As requested by the Foreign Trade Arbitration Court (FTAC) of the Mongolian Chamber of Commerce and Industry (MCCI) and the Mongolian Advocates Association (MAA) the JRP assisted in organizing training for judges, arbitrators and lawyers on arbitration principles, case resolution at the arbitration court, mediation and involvement of State courts in the arbitrary court procedures. The JRP retained an international arbitrator and expert on CLE, to come to Mongolia to run ADR training. After communication with key stakeholders, the consultant conducted interactive workshops on:

- The role of arbitrators and lawyers in the ADR process
- The potential role of the MAA in promoting the use of ADR in Mongolia
- The role of the court system under the new Mongolian arbitration law

The detailed report of the JRP's ADR consultant is in Attachment I. He concluded that mediation may be more useful in the near future in Mongolia than arbitration, at least in respect of domestic (versus international) disputes, because mediation is more in line with the Mongolian culture.

The JRP's venture into this new field indicated a serious lack of donor coordination in the area of arbitration. The JRP established good communication with all the different donors active in this field. If the JRP continues future work in this area significant attention would be focused on creating a combined donor strategy in this field similar to the efforts the JRP spearheaded for CLE.

It seems that the MAA may create its own arbitrations “court” to focus on commercial disputes. The new arbitration law allows the creation of such alternative outlet. Because litigants could then choose between the Arbitration Court of the MCCI and the MAA court improved arbitration services may result. If the MAA court is more efficient or fair, the MCCI court will have to improve in order to remain competitive.

*Results and future implications:* The introduction of an alternative arbitration “court” by the MAA would create competition and likely increase the quality of arbitration hearings. Although arbitration is starting to be used more in Mongolia, mediation may be better suited to Mongolian culture. Mongolians are conciliatory people, usually trying to cooperate with one another, and there is an informal tradition of mediation. The JRP will further coordinate with other donors as appropriate based on discussions with the stakeholders.

#### **TASK 4: Develop creative, interactive judicial ethics courses**

The JRP assisted the NLC in conducting a survey of judicial and lawyer’s ethics code violations as part of a needs assessment for developing appropriate ethics courses. The JRP staff organized task-specific background material on Mongolian legal and judicial ethics and acquired several international judicial ethics codes and documents from the International Commission of Jurists for the NLC to use in its survey. The survey revealed the following most common faults:

1. The “communication culture” of judges is too low
2. Judges maintain personal relations with litigants and/or participants of court sessions
3. Judges are prone to financial and personal influence
4. Judges take a careless approach towards court sessions
5. They are too bureaucratic and
6. They like to “drink alcohol”.

Based on the results of the survey, amendments to the Judicial Code of Ethics were recommended:

1. “The key goal of the Judicial Code of Ethics should be to ensure that judges are independent, not influenced by others, communicate properly, and maintain the judge’s reputation”
2. Articles 5 and 6 of the Judicial Code of Ethics should be rephrased to reduce the above-mentioned common ethical violations
3. In particular, to add a provision that judges shall not communicate solely with one party, in other words to forbid *ex parte* communication.

Jack Marshall of Proethics Inc. taught a one and a half day ethics course (Attachment J) to 25 judges, prosecutors, and advocates using numerous hypothetical situations and gave the audience the opportunity to vote on multiple choice answers, followed by group discussion. The audience was enthusiastic and thrived on his interactive teaching methods and use of audio visual aids. He also addressed the NLC seminar “Legal Ethics and Ways to Develop Legal Ethics” attended by about 70 people. The agenda is in Attachment L.

The JRP’s post-course evaluation not only indicated that participants were highly satisfied with the course (Overall, the course scored a 4.62 on our ascending 5 point scale, see Attachment K) but it indicated that the participants actually changed their behavior as a result of what they learned during the course.

Another immediate, positive result of the workshop and the discussion at this seminar is that the Mongolian consensus was that in the future the lawyer qualification examination must include questions on legal ethics.



*Results and future implications:* The course results indicate that ethics training can make a difference. The likely inclusion of ethics questions into the lawyer examination further indicate that the Mongolian judicial sector is increasingly concerned about and interested in ethical behavior. The JRP will continue to seek opportunities to support this development.

#### **TASK 5: Motivate improved decision writing by judges**

Following the 2003 opinion writing competition co-sponsored by the JRP and GTZ to improve judicial decision writing, the JRP contracted with the GTZ to write a manual to establish the standard for decision writing and legal reasoning and explain to Mongolian judges how to write decisions according to law. The manual will outline the techniques for legal reasoning and will also address common errors by using real civil and criminal case decisions both as positive and negative examples. The manual is expected to be completed by the end of 2004.

The JRP will submit the manual for endorsement to the GCC or the Supreme Court as a GCC Resolution or as a Supreme Court Recommendation for mandatory application by judges. The manual will be made available to law schools and training programs for prosecutors and advocates, so that they will know the standard of decision that they should expect from a judge. After the manual has been in use for at least six months, the JRP, in cooperation with GTZ, will perform an evaluation of the impact of the manual through surveys of judges' reactions and analysis of the quality of a cross section of judicial decisions.

In addition, the JRP arranged for the Chief Justice Shirley Abrahamson of the Wisconsin Supreme Court, Chair-Elect of the NCSC Board (who visited Mongolia on her own expense) to make a presentation about opinion writing for Capital City Court judges and staff. The agenda is in Attachment M. This training will beyond doubt contribute to the improvement of decision writing of the sitting and of the future judges now working as court staff.

*Results and future implications:* The 2003 activities had been limited and the 2004 tasks are still in progress. Therefore, it is too early to expect improvements in judicial decision writing and legal reasoning. If the manual is combined with practical exercises and if the court's hierarchy stresses the importance of good decisions in the future, such activities can have an important impact on the quality of judicial decisions and increased trust of the public in the courts.

#### **TASK 6: Develop a continuing education curriculum for lawyers**

During fall 2003 and winter 2004, the NLC held focus groups to assess the training and educational needs of the various branches of private lawyers to inform the curriculum development process for this group of legal professionals. This is a far more difficult undertaking than developing a judicial curriculum because there are more lawyers than judges and a greater variety of practice areas and needs. As mentioned above under Task 2, the results of the NLC focus groups held to inform the curriculum development process were not as useful as envisioned. Still, the focus group summaries were used by the Prosecutor and Advocate Education Subcommittees for the prioritization of topics to plan courses.

The NLC also developed a comprehensive CLE curriculum for lawyers at entry, intermediate and advanced levels utilizing the needs assessment methodology the NLC learned in 2003 from its study tour and based on the recommendations of the judicial curriculum consultant.

The NLC also developed a comprehensive 3-tiered evaluation method for continuous refinement of the curriculum and courses. It already uses daily course evaluation surveys and in 2005 will start to administer post-course evaluation surveys 3 or 6 months after a course ends. In addition,

the NLC is going to develop some sort of live course monitoring system by legal experts to maintain quality control. The NLC is taking this additional step because they have a concern that Mongolians will not be critical enough of courses and trainers in their course evaluation surveys. The NLC plans to institute the monitoring system sometime in 2005.

*Results and future implications:* Despite the difficulties of establishing the training needs of private lawyers the NLC now has an extensive curriculum for lawyers. The coming year will show how successful its implementation is and if it addressed the needs of this target group and what adjustments need to be made.

#### **TASK 7: Cooperate with the GPO, the Mongolian Advocates Association (MAA), the NLC and other relevant stakeholders to develop a trial skills course for prosecutors, advocates, and judges**

Considering the significant changes the Mongolian laws introduced as recently as 2002, the need to upgrade the trial skills of both prosecutors and advocates along with the judges is significant particularly since law school and traditional education courses for practicing lawyers have focused almost exclusively on knowledge of the laws but not on practical skills needed in preparation for and during trials. Thus JRP is assisting the NLC in developing and presenting a course on practical skills training rather than theory.

The trial skills course was designed by the JRP staff in cooperation with the NLC. The course used fact patterns successfully tested in the 2002 Aimag courses and the JRP produced domestic violence video in addition to some new situations for the practice sessions and mock trials. The trainers were the core JRP trainers as well as others from the NLC and GTZ. The MAA enrolled fifteen young advocates, including the six public defenders sponsored by the Soros Foundation and working under the auspices of the MAA, to attend the course. The GPO enrolled fifteen young prosecutors, including some who represent the Mongolian government in civil cases.

*Results and future implications:* The trial skills courses have proven to be useful for the legal profession in understanding the principle of equality of parties to a case. However, the trainings had shown that the factual equality of parties is not fully specified by the current procedural code and more training focused on “professionalism” including ethics is needed for judges, prosecutors and advocates. There is significantly more work to be done to develop a solid understanding of their new roles in court hearings among legal professions and to increase their skills in fulfilling their roles.

#### **TASK 8: Train prosecutors and advocates on effective courtroom communication**

Courtroom communication is one of the essential skills needed in court hearings. In 2003, the JRP presented a ToT on this topic as part of Mongolia’s first “baby judges” course. In 2004, the JRP assisted the NLC, in cooperation with the GPO and MAA, to present a course for prosecutors and advocates taught by some of the participants of the 2003 courtroom communications ToT. The topics included:

- Importance of Communications & Listening Skills for Lawyers
- Listening Skills
- Verbal & Nonverbal Behavior
- General Communication Skills
- Communications Skills in Courtroom

In consultation with the NLC the JRP staff combined these courses with the regional ToTs in Uvurkhangaig, Khuvsgul, and Dornod (see Task 1 of this Priority Task) Aimags.

The courses were very well received. The NLC did an excellent job of video taping short vignettes displaying poor courtroom communication that the JRP trainers used as starting points for class discussion. The consultant retained by the JRP in 2003 to run a ToT on how to teach courtroom communication advised the trainers of this course by e-mail with supplementary information. The Aimag trainers will teach the course locally by the end of the year. Since some Aimag could not present their courses until November due to illness of trainers, the evaluation summary results are not available yet. However, oral feedback was very positive and assessment of individual Aimag results support this

*Results and future implications:* Considering the importance of good courtroom communication skills the fact that the NLC and Aimag trainers are close being able to conduct this course on their own is an important step in creating the Mongolian capacity to developing the trial skills Mongolian lawyers need. Supporting, observing and monitoring this effort, and expanding it to other trial skill courses appears to be a promising approach creating an educational program that develop these essential skills among significant sections of the Mongolian legal profession with limited external assistance.

#### **TASK 9: Assistance to the Mongolian Advocates Association (MAA)**

Over the past two years, the MAA has made significant strides towards becoming a representative professional association that provides its members with needed services and represents their voices. Considering the vital role private lawyers play in ensuring proper court practices and their potential importance for strengthening the rule of law and judicial independence, the JRP continued to observe the MAA's development and provides assistance to the extent it fits with the JRP's scope and is feasible within the context of other priorities.

In 2004, the JRP consultant on ADR, who is also an internationally recognized authority on bar association management, taught an all-day workshop for MAA officers and heads of the Advocates Councils in the Aimag to discuss management issues and techniques. This culminated in action planning in small groups. The results are being summarized for the MAA so that they can follow up on their top priorities. Once the MAA determines which activities it will pursue, the JRP will determine whether it can and should be of any assistance.

In addition, considering the importance of a transparent accessible disciplinary system to enhancing the quality of the legal profession the JRP printed 1000 posters describing the MAA's disciplinary system which were distributed to all members to post in their offices as well as to NGO's and some government offices.

The JRP will continue to assist the MAA to build up the capacity of this organization to address issues of qualification, ethics and CLE of its members.

*Results and future implications:* The ability of the MAA to evolve into a representative professional organization appears to be increasing. Depending on how this process evolves the JRP may find a range of opportunities to assist the MAA that not just advances its capacities but to positively impact judicial sector operations and judicial independence.

#### **TASK 10: Support the establishment of the NLC through provision of technical assistance on organization and management**

The JRP has been providing technical assistance to NLC since its establishment in 2002, particularly in developing its strategy, advising on the structure of the organization, providing recommendations on the curriculum and course development. The JRP staff continued to provide

the NLC with assistance on organization and management throughout 2004 as requested. Opportunities for this type of assistance have been limited until the NLC moved to its new facility in June 2004. As a result, most assistance focused on providing support for CLE system development, including a workshop for NLC staff on how to design and manage a CLE course.

The JRP also gave NLC staff extensive advice and assistance on its duties in connection with Mongolia's first national lawyer qualification exam, described in Task 15.

*Results and future implications:* As a result of the JRP's assistance, the NLC developed a strategic plan to guide its development and operations in the future. This is an important step to ensuring that the NLC has the potential to develop training and education programs that address the needs of the Mongolian profession instead of being driven by availability of donor funding and individual donor interests. The NLC has recognized the cost effectiveness of using a pool of part-time teachers, particularly those practitioners that have been trained by the JRP, a remarkable change from the initial intention of using fulltime staff, most of which with little practical experience. Still, it is long way from developing such a plan to implementing and advancing it. The funding for and management of the NLC will be high priority areas to focus on. Assistance will be required on cost effective management of the NLC as a training, research and public education facility.

#### **TASK 11: Support planning retreats for the NLC Governing Board and General Education, Judicial Education, Prosecutors, and Advocates**

This task is designed to support the CLE curriculum development tasks (Priority Task 3, task 2) and the NLC management task (Priority Task 3, task 10). In September, the JRP funded an all day retreat (Attachment N) of the NLC Governing Board, Education Committee and all three Education Subcommittees. This retreat was intended to enable the NLC to plan its own 2005 course schedule and discuss the required assistance from the JRP and other donors in 2005.

The NLC solicited comments from stakeholders and presentations by NLC staff and other stakeholders presented experiences with CLE from other countries to inform the discussion about the direction CLE in Mongolia should take. The JRP emphasized the importance of using part-time trainers who still practice law or sit on the bench and therefore have practical knowledge, and encouraged the NLC to institute skills training ToTs in addition to training on the law and to engage in more advance planning.

Discussions also focused on factors effecting CLE (Attachment O), such as training environment, course materials and timing. The NLC staff placed great emphasis on course evaluation, particularly the need to conduct post-course evaluations to assess training impact on behavior, outside evaluations and assessments of faculty performance.

The retreat improved communication between the NLC staff and the members of the Governing Board, the Education Committee and Subcommittees. The JRP translated the minutes and handouts from the retreat into English for further review and analysis. During the year the JRP staff checked with the Chairs of the various Subcommittees, and they all verified that they were meeting more often and NLC was responding to their suggestions. The overall assessment is that this year the NLC is utilizing the expertise of the subcommittees much more effectively than before.

*Results and future implications:* The NLC has made very positive steps towards involving and listening to the Board and its committees. Both, the NLC staff and the committee members also demonstrate an increasing understanding of the need to develop a standard training curriculum and a remarkable sense for the need to evaluate the effectiveness of training. Considering that

CLE for the legal profession had been largely ad hoc, completely donor driven, and barely considering quality measures these developments are very promising. Since all of these efforts are so young every accomplishment is also very fragile and will require significant support and assistance in the future.

### **TASK 12: Development of distance education programming**

Considering the size of Mongolia, the fact that a relatively small number of legal professionals is operating throughout the country, combined with the financial restraints the judicial sector as well as most legal professionals have to operate under, means that distance learning is key to providing affordable CLE that is accessible to all. Developing a distance education program is part of NLC's strategic plan (Attachments P, Q). Most of the necessary equipment is being purchased for the NLC by the World Bank JLRP. However, the JRP is providing assistance to the NLC on development of its delivery concept. Distance learning involves a range of media from self-learning training material in form of printed training manuals, videos or interactive CD-ROMs, to training courses that are delivered using teleconferencing equipment for live course or web based courses that can be taken any time. Considering that particularly the latter applications required a production base and are new to the legal profession the NLC had not been ready to receive related assistance so far. The JRP has, however, considered this movement and supported learning tools for a distance learning environment. For example, the JRP completed production of the video *Trying a Domestic Violence Case*, distributed throughout Mongolia to judges, prosecutors and advocates. Currently the JRP is assisting the NLC in producing a CD ROM course on the new domestic violence law. Other JRP activities conducted to explore the cost and feasibility of video conferencing provide important planning information to the NLC.

*Results and future implications:* While the NLC will have quite advanced technology to produce distance leaning material and courses, its capacity to develop an deliver a range of distance learning modules and courses has to be developed from the ground up.

### **TASK 13: Assist in design of a CLE record keeping system**

Since the Non-Staff Council insisted on having its own, private record keeping system for maintaining information on applications to take the lawyer qualification exam, reported below, the JRP is setting up a parallel system with more data fields for the NLC so that once a lawyer is admitted to some branch of the profession the NLC can track CLE attendance or teaching. This activity will be continued in 2005.

*Results and future implications:* The JRP will continue to assist with this function as the NLC needs to have a comprehensive database to track the attendance of all course participants and the teaching by all trainers.

### **TASK 14: Development of NLC course manuals and publications**

In addition to training material developed for the courses conducted under Priority Task 3, tasks 1, 3, 4, 7, and 8 the NLC used the manuals on *Company Law* and *Contract Law* published by the JRP in 2003 as course manuals for its 2004 training on these topics. In addition, it became obvious that the NLC and its trainers and those who were and will be developing training material need to establish and follow some quality standards and provide guidance to the material developers. In support of this effort, the JRP consultant Felix Stumpf produced a guidebook for the NLC on how to produce course materials and other publications. The JRP staff reviewed the guidebook and the JRP published it for distribution to NLC trainers and staff.

*Results and future implications:* This guidebook has significant value for trainers and authors and should have long-term impact on improvement of CLE course materials and legal publications.

### **TASK 15: Help NLC develop a bar review course**

In January 2004, the NLC presented a three-day bar review course in Ulaanbaatar for applicants sitting for the first lawyer qualification examination. The JRP assisted by providing a training videotape so that the course could be seen in all 21 Aimags. This course should become a profit making activity for the NLC and further its sustainability. Unfortunately, the NLC did not establish a mechanism to generate hard data to compare the pass rate among applicants who attended the bar review course with those who did not. Subjective feedback from those who took the course is that it was helpful.

The JRP will continue to advise the NLC on curriculum development for the course and fund the publication of the course materials. The JRP will also help NLC organize the materials and sample questions in electronic form.

*Results and future implications:* The availability of a preparation course is important to ensure that those who want to take the exam know what to expect and that exams set a uniform standard for all candidates. The stark comparison of the higher pass rate in Ulaanbaatar and the disappointingly low pass rate in the Aimags may be in part due to the fact that in the Aimags they had only videotapes of the Ulaanbaatar course and no trainers to answer questions. In the future, the NLC should devise a method for greater accessibility to the review course.

### **TASK 16: Develop additional written educational materials**

One of the JRP's objectives was to support cooperative CLE publication efforts with other providers with the purpose to use its publications budget for maximum effectiveness.

*Cooperate with other funders on the development of CLE material:* The JRP provided advice to the Soros Foundation for the translation of foreign publications. The following three publications were suggested:

- Attaining Excellence in Continuing Legal Education: Standards for Quality and Methods for Evaluation, ALI-ABA
- Educating Judges: Towards a New Model of Continuing Judicial Learning by Livingston Armytage, Kluwer
- Legal Education and Professional Development: Report of the Task Force on Law Schools and the Profession (the MacCrate Report), ABA

In addition, the JRP agreed to funding the publication of the papers generated by the NLC's seminar on "Legal Ethics and Ways to Develop Legal Ethics". The publication will increase the value of the seminar. Its distribution to all judges, prosecutors and advocates will raise their awareness of ethical issues, furthering both Task 3 and 4 and Priority Task 5 of the JRP 2004 Workplan.

Furthermore, the NLC requested funding for thirteen manuals on different sections of the criminal law to be used as course materials. The JRP agreed to assist with three manuals in 2004 and incorporate the others in its 2005 Workplan. The NLC identified three of the thirteen manuals that the NLC needs most urgently.

*Publish a common legal journal:* The JRP, GTZ, HURISTMON, and the NLC agreed to cooperate to combine all donor supported legal periodicals into a joint legal journal that is more

likely to be sustainable on a subscription basis than several small ones. It was also agreed that each institution will retain editorial control over its section of the journal. Unfortunately, the Mongolian Supreme Court is resistant to combining its journal previously funded by JRP with JRP, GTZ, and other organizations' legal periodicals. This has delayed the efforts of the JRP and GTZ to assist in creating a sustainable legal journal. However, the NLC did agree to publish the Supreme Courts interpretations in the combined journal in 2005.

*Support the Professional Committee of the GCC in publication of material on the selection of judges:* The GCC requested assistance for publishing documents related to the judicial selection process. The JRP staff assisted in organizing a competition announced by the Judicial Professional Committee (JPC) and the Supreme Court Research Center among law professors and researchers to develop topics, tests, and exercises to be included in a sample examination test their value for assisting applicants in preparing for the selection process. In addition, the JRP staff assisted in summarizing the results of the competition and in clarifying inconsistencies and ambiguities in the sample questions.

The first volume of the manual with sample judicial examination materials was printed and delivered to the JPC. It is too soon to evaluate reaction to and utility of the first volume. Distribution of this material will enhance the transparency of the judicial selection process and maximize the opportunity for qualified applicants to go on the bench. The second volume, sample questions drafted by Mongolian legal scholars, will not be ready for review for several months.

*Results and future implications:* Lack of quality education and training material for the legal profession has been a major issue. The JRP assistance has contributed to increase the availability of such material and provided guidance for the development of quality material aimed at the needs of practitioners. Particularly assistance to the NLC to become a "clearinghouse" for practitioner oriented material will be important for ensuring that publication efforts are not duplicated and already developed material continues to be available.

#### **PRIORITY TASK 4: DEVELOP AN EFFECTIVE MONGOLIAN SYSTEM TO QUALIFY LEGAL PROFESSIONALS**

*Objective: Improve the competence and status of legal professionals in order to enable them to fulfill their independent roles in the Justice system.*

Like Priority Task 3, this Priority Task addresses the poor qualification of Mongolian legal professionals. The proliferation of private law schools in the 1990 raised concerns about the lack of standards for the practice of law. Mongolian stakeholders raised the issue of creating a bar exam to create minimum standards and give the public confidence that legal professionals have an adequate knowledge of the law. Needless to say, good governance requires competent legal professional. The successful implementation of a bar exam in 2004 and onwards will improve the quality of the courts and governance.

The tasks identified in the 2004 Workplan are:

- Assist NLC and MoJHA with any follow-up or refinement of the new national testing system of legal professionals
- Assist in organization of a voluntary bar association for lawyers in the private sector, particularly those with a non-criminal practice such as contracts, banking, securities, employment, real estate, or intellectual property.

Activity highlights included:

- The administration of the first Mongolian national lawyer qualification examination
- A stakeholder meeting to discuss the training and credentials of Mongolian legal advisors, who were not covered by the law passed in 2003.

**TASK 1: Assist NLC and MoJHA with any follow-up or refinement of the new national testing system of legal professionals**

The Non-Staff Council for the Selection of Lawyers of the MoJHA in charge of administering the examination to test the qualification of newly graduated lawyers and other lawyers seeking new positions contracted with the NLC to develop the tests, produce the forms, and assist in the administration of the examination. The JRP staff assisted NLC and the Non-Staff Council administering the lawyer qualification exam specifically in the record keeping needs in connection with the bar qualification exam by providing the software and technical assistance to set up such a record keeping system and training for the NLC staff on how to maintain it. Although the Council and the NLC tried extremely hard to maintain confidentiality, transparency and fairness, there were several problems during the administration of the examination on January 30 – February 1, 2004. Since the number of applicants that passed the test at the originally set success level was not sufficient, the qualifying score rate had to be lowered to ensure that a sufficient number of applicants for the open positions would be available. The JRP's detailed report and recommendations are in Attachment R. The JRP recommendations to improve the qualification examination were published by the NLC and stimulated further public dialogue about the tests. As mentioned above, the dialogue resulted in the decisions that the examination should include questions on legal ethics, which can positively impact ethical behavior among the legal profession and judiciary.

In preparation for the next examination the JRP staff began designing a study tour for MoJHA and NLC senior staff in 2005 and contacted the National Conference of Bar Examiners of the US to provide additional comments and recommendations to the working group of MoJHA and NLC when preparations begin for the second examination. The date of the second lawyer qualification examination will probably be July 2005. The JRP will continue providing assistance in reviewing and editing the exam and in implementing the security rules.

*Results and future implications:* The introduction of the qualifying exam is an important step to enhance the quality of the legal profession in Mongolia. Additional assistance will be required for future exams to ensure a quality and fair process. Considering that the judicial selection process does not yet fully take the test results into consideration and that the best candidates may prefer a private sector position, the impact of the exam on the quality of the judicial profession remains to be seen.

**TASK 2: Assist in organization of a voluntary bar association for lawyers in the private sector, particularly those with a non-criminal practice such as contracts, banking, securities, employment, real estate, or intellectual property**

The lawyer qualification law does not currently apply to “legal advisors” and in-house counsel despite recommendations from the JRP and other stakeholders. The JRP sponsored a meeting to discuss the issue of training and regulation of legal advisors (lawyers, particularly business lawyers, who do not appear in court) who are key to developing a successful market economy (Attachment S). The JRP staff and others described the certification systems for such lawyers in the United States, Germany, Japan, Russia, France and other jurisdictions. The minutes and accompanying papers of this meeting were sent to all relevant organizations, whether they had attended or not, to solicit comments. In addition, the JRP began preparations for establishment of a working group to make recommendations and develop an action plan on this issue.



The President of the Mongolian Advocates Association (MAA) promised his support for an effort to raise the training and credentials of private non-court lawyers practicing business law. In addition, he envisions that the MAA becomes a full bar association for all Mongolian lawyers. He prefers this approach to setting up a separate association for legal advisers, the branch of the profession omitted from the lawyer selection law.

Furthermore, the Mongolian Association for Protecting Foreign Investors' Interest, whose main function is to assist, advise and protect the interests of economic entities and individuals who are investors or potential investors, is supportive of this approach. The association generally performs or refers legal work and refers members to other professionals, such as accountants, to investors. The association is planning to conduct a training program that lawyers will have to take before the Association will refer a case to them.

At the request of the MoJHA, the JRP gathered sample bar association by-laws and constitutions in case Mongolia decides to establish a new, self-regulatory lawyers' association for legal advisors. The JRP will continue to work with the NLC, the MAA and other relevant organizations to improve the credentials and training of legal advisors by assisting in curriculum development, support in the design and administration of a certificate program.

*Results and future implications:* The JRPs activities have raised the awareness of the need for qualification requirements for legal advisors. Relevant organizations have become active in pursuing the next steps toward actually implementing some qualification mechanisms. A certificate program or qualifying examination for legal advisors could become a profit center for NLC.

## **PRIORITY TASK 5: ENHANCE ETHICS FOR THE LEGAL PROFESSION AND SUPPORT ANTI-CORRUPTION EFFORTS WITHIN THE JUSTICE SECTOR**

*Objective:* Increase support for the justice sector by improving the perception and reality of honest and ethical behavior by legal professionals.

No issue can undermine good governance and accountability more than corruption and other ethical violations by the guardians of society's norms, the justice system. Thus, the JRP has sought a variety of ways to strengthen the ethical standards of legal professionals to achieve the goals of USAID and the Mongolian Strategic Plan.

The JRP tasks in 2004 Workplan included:

- Assistance to the Special Investigative Unit
- Assistance to the Judicial Disciplinary Committee
- Cooperation with Efforts of Other Donors.

Activity highlights included:

- Equipment and software for the SIU
- Assistance for SIU investigators
- Training video and workbook on judicial ethics for all legal professionals
- Training for the JDC on effective disciplinary processes.

### **TASK 1: Assistance to the Special Investigative Unit**

The JRP coordinated its assistance to the SIU with UNDP's planned funding and adjusted its list of equipment to improve the SIU's ability to respond to complaints. In addition, JRP developed software for the SIU that allows investigators to log complaints, track cases, search for cases with similar histories, and produce reports. Observations of the unit and a review of the assistance request indicated that the SIU seemed to be struggling with organizational and management issues and that the expressed training needs were so disparate that the unit may be facing issues related to staff qualification, training, or leadership – or all of the above. As a result, the JRP arranged for Dennis Hawkins, the American anti-corruption prosecutor who has worked with the SIU in the past to conduct a one week assessment of the SIU's needs. The assessment was conducted in November on both the SIU management issues and case handling. Mr. Hawkins provided a range of recommendations with his initial draft report including determining the final outcome of investigated cases, better public outreach, and improved time management with respect to case investigations. The finalized report will be available in December. Based on these recommendations, the JRP has started using its in-house public education specialist to work with the SIU to develop a strategy for public outreach. The JRP will bring Dennis Hawkins back in 2005 for training on the issues identified in his report.

In addition, the JRP made arrangements with the ABA team that conducted ethics training for the Advocates Association to organize training on financial forensics. The JRP assisted with reserving a venue and designating attendees. Further, the JRP arranged for the SIU investigators to attend the US Treasury anti-money laundering training for justice and banking sector officials on issues of implementing the new Anti-Money Laundering Law.

The three weeks internship of the Deputy Director of the SIU to Germany to work with a selected anti-corruption investigation unit to observe how such an office operates on a day to day basis was postponed because he received a different scholarship to study in Germany. The JRP will revise this activity and implement it according to circumstances to support capacity building.

*Results and future implications:* The SUI has significantly increased the number of investigations into allegations of wrong doing against justice sector staff and officials. The newness of this institution, the difficult tasks it has to fulfill and continuous financial strains under which it has to operate are obstacles that are not easy to overcome. The JRP will continue to assist the SIU in providing technical assistance, training and specifically in building a website and e-mail domain so that complaints can be received through those media and its activities can be made more transparent.

## **TASK 2: Assistance to the Judicial Disciplinary Committee (JDC)**

The new JDC was created in November 2002 with the JRP assisting in design. In 2003, the new JDC reviewed 71 out of 95 complaints received from citizens and organizations and as of June 2004 it received 88 complaints: 29 complaints were not accepted as a matter not within the Committee's jurisdiction, 40 complaints were reviewed and declined. Disciplinary cases were initiated in connection with 5 judges, three of which had been reprimanded and two had been demoted from their ranks. The Committee considers that the success of their work was due in great part to the JRP's assistance.

This year, the Supreme Court specifically requested assistance for the JDC to enable it to perform its functions significantly different from its previous practice by developing procedures and practices to make investigations more professional. Though the JRP equipped the Disciplinary Committee with computers and related equipment in 2003 it still faced financial and human resource needs. The JDC made a request for additional computers for additional staff and assistance in developing software designed for establishing a record keeping system. The JRP will assess the use of the equipment already provided and make a determination of their need for

additional equipment. A review of their current case load and needs indicated that existing Excel software is sufficient for their needs and further user training will be provided.

In addition the JRP located a consultant to conduct training on effective disciplinary processes for the JDC. Mr. Sarnowski, Executive Director and General Counsel for two Nevada Judicial Branch agencies: Nevada Commission on Judicial Discipline and the Standing Committee on Judicial Ethics and Election Practices presented a workshop to the JDC in November 2004. The sessions were attended by all members of the JDC and its staff and much of the time was spent in detailed question and answer discussions of practices and procedures. Mr. Sarnowski located additional material in response to questions and has left the JDC with a library of information. Partly as a result of this session, the JDC decided to review the Judicial Ethics Code and consider having it enacted as law (rather than regulation).

*Results and future implications:* The increase in complaints received by the JDC is an indication that awareness of its operations is growing. The JDC has an important function in ensuring judicial integrity and its work indicates that it is performing to the best of its abilities. More detailed information about its work and analysis of its results will be needed to assess its performance and design additional assistance. In addition to advice and training support for informing the public about the outcomes of its work will be important. The JRP will have an opportunity to suggest improvements to the Judicial Ethics Code based on the consultant's recommendations.

### **Training material on Judicial Ethics Code**

In 2003, the JRP worked closely with the JDC and PACT to produce the Ethics video designed to be presented both to general audiences and to judges. In 2004, PACT was awarded a contract to develop a workbook to accompany the Ethics video in cooperation with the JDC. The workbook, designed for self-education of judges on judicial ethics, will prompt discussion of ethical issues raised at various points in the video. The video and the workbook were tested with a number of judges and then distributed to all courts with an endorsement letter from the GCC to use it in their internal CLE.

*Results and future implications:* The workbook was distributed in November 2004. No feedback is available at this time.

### **TASK 3: Cooperation with Efforts of Other Donors**

As mentioned above, the JRP coordinated procurement of equipment for the SIU with the UNDP. The UNDP received a list of equipment from the SIU which appears to duplicate some of the procurement the JRP was planning. The JRP adjusted its procurement plans accordingly. This has allowed the JRP to supply the needs of the Ulaanbaatar headquarters while the UNDP committed to take care of providing equipment to regional offices.

The COP met with the ABA team that conducted ethics training for the Advocates Association and made presentations for Otgontenger Law School and the NLC. There was no duplication of efforts as JRP had sent information about its ethics training activities to the ABA earlier. In September the ABA team conducted training on financial forensics in which the JRP assisted.

At the request of USAID, the COP and the JRP Training Specialist met with the US Treasury anti-money laundering team. The COP explained the legal system in Mongolia and in the closeout meeting it was agreed that if the US Treasury sent trainers on issues of implementing the new Anti-Money Laundering Law, the JRP would facilitate their integration in the NLC curriculum, especially ToTs, so that any training can be sustained by Mongolians in the future.

## **PRIORITY TASK 6: ENHANCE THE PUBLIC'S UNDERSTANDING OF THE JUDICIAL SECTOR AND THE RULE OF LAW**

***Objective:** Build public demand for an honest and effective justice sector by increasing the understanding of citizens' rights and how to exercise them.*

The public confidence in the justice system is essential to their confidence in the good governance in all institutions. When the JRP first conducted a public opinion survey in 2001, it found public confidence in Mongolia's legal institutions was generally low. As improvements have been made in the justice sector, it has been essential to communicate those changes to the public so that they understand and can exercise their rights. This is the essence of good governance. Likewise, it is necessary to educate the media about the justice sector, so that an independent media can play its role as the public's "watch dog" by accurately reporting on the justice system, and thus making it accountable to the public.

The public education constitutes a separate Priority Task in the 2004 Workplan reflecting its importance both to develop public support for an independent judiciary and the increased importance placed on this activity by the US Mission. While the JRP directly engages in public education through public speaking on the project goals and technical achievements the majority of the public education campaign is carried out by the JRP's subcontractor PACT.

The JRP tasks in 2004 Workplan included:

- Intermediate journalist training
- Rural journalist training workshop
- Public Officials training including cases and press releases
- Year long TV series
- Radio drama series
- Enhance *Rule of Law* newsletter design
- Redesign, update and maintain JRP website including new links/features
- Regular news & information column for the MoJHA and Supreme Court.

Activity highlights included:

- Fourteen intermediate journalists and 20 rural journalists trained
- Ten PR officers trained
- Second series of the award winning "Huuliin Tsag" ("Legal Hour") TV program on the Criminal Procedure Code
- New JRP radio drama series covering the same topics as the TV series for rural population that have limited access to television
- Improved and updated JRP newsletter and website design.

### **TASK 1 and TASK 2: Intermediate and rural journalist training**

In 2003, JRP conducted a three-day training of 30 Mongolian journalists in cooperation with PACT. The purpose of this training was to build the capacity of Mongolian journalists to effectively and professionally cover news stories related to courts and the larger legal and judicial sector. In 2004 the JRP conducted a follow up training that covered topics beyond basic reporting such as media ethics, investigative reporting, and interviewing techniques. The JRP provided PACT with a new UNDP book on training investigative journalists, which PACT distributed to all the journalists and used in the training.

The 2004 rural journalists' workshop was built on trainings provided by PACT through the USAID-funded Gobi Initiative Project over the past three years and focused more on multimedia approaches as many participants work in all forms of media.

As part of the training, the COP explained the importance of the media in informing the public about the courts, keeping the courts honest and the importance of preserving the independence of the courts and the presumption of innocence when reporting on the courts. The training for rural journalists will not only upgrade their reporting skills but their participation will further the reach and impact of the JRP project into rural areas.

*Results and future implications:* The JRP's goal in educating journalists to report on the courts aims at creating a mechanism to help the public understand the courts, correct flagrant problems, and in the long run build public support for judicial independence. Most of the rural journalists had never had any training before. Most expressed new concern of ethical issues and new interest in reporting on the courts. The JRP will continue to build on this effort and extend the training on a broader scale.

### **TASK 3: Public Officials training**

In 2003, the JRP trained 11 Mongolian public affairs and public information officers from the MoJHA, the GPO, the MAA and select courts. The purpose of this training conducted by PACT was to build the capacity of Mongolian PR officers in the justice sector to effectively and professionally work with Mongolian media specifically, and the public in general.

The Supreme Court specifically requested a follow up training in 2004. The curriculum design for this advanced training was facilitated by PACT's media volunteer and technical advisor. The follow-up training included workplace site visits to evaluate effectiveness of preparation and dissemination of press releases and suggestions for improvement of the justice sector PR officers' job descriptions. In addition, the participants received material from actual court cases to help them learn how to prepare useful and informative information for the press. Reviews were very positive and stressed both relevance of the course and the introduction of new ideas as well as the need for more training, including training that assists them in information development.

In addition, the JRP discussed with the GCC Executive Secretary the issue on training Public Access Terminal (PAT) operators and publication of posters on PAT activities that would raise their prestige and make them more into PR officers. This would greatly increase the ability of all courts, not just the key agencies in UB, to relate to the public.

*Results and future implications:* The ability of the judicial sector to connect to the media and the general public is to a large extent driven by the effectiveness of their public affairs officers. The JRP will continue to build on this effort and extend the training on a broader scale to enhance the ability of individual courts to reach to its own community. This would not only be a significant step towards increased concern by the courts for its users but decentralize some of the information dissemination activity of the courts. This is important for addressing the needs of local communities and provides opportunities for building local court leadership.

### **TASK 4: Year long TV series**

In 2003, the JRP in collaboration with the GTZ produced a year-long, 24-part, TV series based on the GTZ model, which has proven a successful, efficient, cost-effective means to impact people's minds and affect behavior change among citizens. The program topics of the second series of "Legal Hour" on the Criminal Procedure Code had been identified through focus groups in

consultation with JRP, GTZ and MoJHA leaders and staff. In producing the series, content quality control has been ensured through focus group testing. Monitoring and quality control of the scripting and production of each episode has been conducted by professional JRP and MoJHA staff. The production of the second series required hiring a professional script writer and some professional actors to carry the main characters as the program is turned into a series following an extended family. Still, most parts continue to be played by students. By popular demand, the “Legal Hour” is now aired twice a week (rather than once a week in 2003).

*Results and future implications:* The show “Huuliin Tsag” (“Legal Hour”) has been constantly rated in the top ten most watched programs on Mongol TV and was awarded as the most popular show on Mongol TV in 2003. In addition, the JRP is pursuing syndication of the show via rural TV stations to expand the program’s audience base.

#### **TASK 5: Radio drama series**

To reach out to the rural population in remote Aimags that have very limited access to television, PACT created a new JRP radio drama series that covers the same topics as the TV series and includes 26 episodes, 20-minutes each. As with the TV series, monitoring and quality control of the scripting and production of each episode involved JRP professional staff and consultants. The show is broadcasted nationally on Mongol Radio (LW and FM). Rural radio stations will rebroadcast the programs as demanded locally. The first program was broadcasted in December.

*Results and future implications:* A preliminary focus group hearing a reading of the first script was held and was very positive about the program.

#### **TASK 6: Enhance *Rule of Law* newsletter design**

The JRP has been producing a monthly newsletter since 2001. Copies had been distributed to MoJHA leaders and staff, justice system agencies, courts, prosecutor’s offices, the President’s Office, donors, NGOs and Parliamentary Committees, the NLC, libraries and law schools. The newsletter is also available on the JRP website [www.ncsc.mn](http://www.ncsc.mn). In 2004, the JRP with the expertise of the PACT media producer improved the layout of the newsletter and made it more “reader-friendly”. The content is still driven and produced by the JRP staff, focusing on creating a mechanism to share information about events and activities that contribute to rule of law reform.

*Results and future implications:* Continuing requests for the newsletter indicate continuing appreciation for this source of information. More and more organizations, particularly courts, are sending in information for publication in the newsletter as it has proven to be useful as a reference. The JRP continues to review the content of the newsletter to make it more informative and to promote understanding of the JRP’s activities in Mongolia.

#### **TASK 7: Redesign, update and maintain JRP website including new links/features**

The JRP has maintained and updated its website since the beginning of the project. With the purpose to improve the “look and feel” of the website the JRP contracted with PACT to take responsibility for design and maintenance of the JRP website in 2004. As a result, the new webpage now includes additional information such as the JRP recommendations on draft legislation, information on the trainings and workshops, and manuals and publications supported by the project. The website has new links to websites that are visited by citizens, donors, NGO and government officials that need and can use information on the judicial reform process in Mongolia. Currently the JRP is improving the photo section.

*Results and future implications:* Currently 15 to 20 people visit the redesigned website each day. The JRP will assess the feasibility of including its website into a “hub” with a network of Mongolian information providers that share information and media content in order to improve the diversity, quality, relevance of and access to information that serves developmental needs. The JRP will continue to review the website to ensure that it is user-friendly.

#### **TASK 8: Regular news & information column for the MoJHA and Supreme Court**

The monthly *Rural Business News* (RBN) magazine is the largest and most reliable source of development-oriented information for citizens in the countryside. In 2003, PACT secured space in the paid content section of RBN for the JRP. This space was made available to the MoJHA. In 2004 MoUs were presented to the MoJHA and the Supreme Court governing their submission of articles. The MoJHA and the Supreme Court submit articles which are reviewed by JRP staff and published by RBN. The MoJHA columns appear every month and the Supreme Court columns every other month. This new shared arrangement gives greater variety of news and information to the public.

*Results and future implications:* These columns reach an otherwise remote rural audience. PACT will assess readership as part of the ongoing monitoring.

### **C. PROGRAM MONITORING, EVALUATION AND PLANNING**

To better align with USAID’s reporting requirements the JRP devised revised indicators in terms of both content and format. The PMP original format was initially prescribed by USAID/Manila, but the current USAID/Mongolia administration is willing to accept a simpler format. The number of indicators is reduced to provide a clearer framework for weighing implementation options in developing the Workplans, evaluation and reporting duties.

**Program Audit** - USAID agreed to conduct an audit of the local project accounting before the JRP Office Manager/Accountant, left in July. The Defense Contract Audit Agency conducted the audit from June 7<sup>th</sup> until early July. During the exit interview with DCAA in July a number of suggestions were made regarding the JRP’s procedures but no questionable expenditures were found. The COP wrote a response to the letter following up the exit interview that requested additional information. All of the auditor’s recommendations have been instituted.

The JRP Chief of Party was awarded the medal “Court Employee of the Year” on August 26<sup>th</sup>, by a GCC Resolution. The Chair of the GCC and the Minister of Justice and Home Affairs have conferred certificates of appreciation for his excellent job in furthering the judicial reform in Mongolia.

**Project staffing issues** – At the end of 2003, the Court Administration Specialist, Charles Ferrell completed his assignment in Mongolia and the responsibilities for court administration and case management projects were transferred to the Court Administration Program Coordinator, D. Urana, who has worked proficiently to assure that all tasks are successfully implemented. This is a major milestone in capacity building and sustainability.

In addition, this year the JRP had significant changes in its local staff. A new Public Education Coordinator was added to the staff reflecting the increasing emphasis on this aspect of the project. Due to staff departures the positions of the Training Coordinator, the office manager/accountant and the receptionist/administrative assistant’s positions had to be advertised or reassigned. Qualified staff were found for each position.

The JRP further focused on increasing the capacity of its Mongolian staff in light of the scheduled departure of the second expatriate at the end of 2004. The JRP held two staff retreats to build the cohesion of the team, solicit ideas for the running of the project to its completion (see Attachment T and U). The retreat in September focused particularly on team building as more than one third was new staff. The JRP team also discussed the employee manual and possible activities for the 2005 Workplan.

### ***Other donor coordination activities***

From the beginning, donor coordination has been a priority task for the JRP. As mentioned above, the JRP's coordination with the GTZ is exemplary, to the extent that the GTZ promoted the cooperation in Mongolia as a model for donor coordination. Cooperation with the World Bank and Soros has also evolved into almost "standard procedures", not just occasional events. The JRP is increasingly seen by other donors as the focal point for legal and justice sector information and more and more as the hub for rule of law coordination. The JRP's newsletter and website contribute to this effort specific donor coordination activities in 2004 included:

- The USAID-NCSC Cooperative Agreement originally contemplated that the JRP would work to create a Unified Information System (UIS) for the justice sector and work on improving law school curriculums. With the agreement of the USAID Mongolia Mission, those activities were dropped because of the involvement of other donors. In 2004, the World Bank Judicial and Legal Reform Project made substantial progress on designing the software for the UIS and intends to have it at least partially in operation in December. The World Bank also presented its report and recommendations for law school curricula to the MoJHA and the three pilot Law Schools. Separately, the Hanns-Seidel Foundation continues to work with the National University Law School on curricula development. The JRP has monitored and provided information and assistance to these efforts.
- JRP sponsored donor/stakeholder meetings on CLE and lawyer qualification issues. These meetings were well attended, with representatives of NLC, GCC, GPO, GTZ, HSS, MAA, JICA, and World Vision (Attachment V).
- Coordination with World Vision focused on expanding training on juvenile victim protection and rehabilitation of juvenile offenders currently conducted for police to judges and prosecutors. The JRP could facilitate the integration of the training into the NLC curriculum to avoid duplication with other donors.
- Coordination with JICA reinforces their efforts to publish case books of the Supreme Court cases
- The JRP informed the Global Rights (GR), formerly Human Rights International Law Group, on court monitoring and public education efforts by the JRP and TAF to ensure that they would not duplicate in formulating the GR efforts.
- With respect to the establishment of Public Defenders Offices in UB and Hentii funded by the Open Society JRP included some of the Public Defenders in the October trial skills course presented by the NLC with JRP assistance.

***Other program staff activities*** The JRP has evolved into the central ROL project in Mongolia it was envisioned to be. Particularly the availability of experienced expatriate staff provides USAID, the embassy, the key Mongolian stakeholders, and other key partners with a reference point to gain immediate expert information, advise and coordination support. The JRP was able to provide legal background information to a number of USAID and Embassy projects, but most significantly, it was able to offer support to the brand new Administrative Courts as they took on one of their first cases, the highly controversial disputes over two parliamentary seats. The JRP's support in private and in the media helped assure the independence of the court and the public perception of fairness.



## **D. PROBLEMS ENCOUNTERED AND STEPS TAKEN TO RESOLVE THEM**

There were no special problems not noted above with respect to the conduct of the project.

## **E. ATTACHMENTS**

1. Attachment A. COP's Speech for Administrative Court Judges
2. Attachment B. Summary Report on Court Management and Administration Study Tour to the US
3. Attachment C. Assessment and Recommendations by the Informal Leadership or Professional Association Consultant
4. Attachment D. Report on the Prosecutor Software Training
5. Attachment E. Soros Feasibility Study on Teleconferencing
6. Attachment F. Memo on Arrest and Detention
7. Attachment G. Memo on 2003 Aimag Follow up Courses
8. Attachment H. Feedback by Dr. Ballard-Reisch
9. Attachment I. Report on ADR Teaching
10. Attachment J. Agenda – Legal Ethics
11. Attachment K. Ethics Course Evaluation
12. Attachment L. Agenda – Ethics Development
13. Attachment M. Agenda – Decision Writing
14. Attachment N. Agenda – NLC Retreat
15. Attachment O. Implementation of the CLE Strategic Plan – NLC Retreat
16. Attachment P. Strategic Plan for Continuing Legal Education
17. Attachment Q. NLC Action Plan 2003
18. Attachment R. Report and Recommendations on the Lawyer Qualification Examination
19. Attachment S. Agenda – Mongolian Legal Advisors Training & Credentials
20. Attachment T. Agenda – March JRP Staff Retreat
21. Attachment U. Agenda – September JRP Staff Retreat
22. Attachment V. Agenda – Forum on CLE in Mongolia



## **Judicial Independence and the Administrative Courts:**

Kings used to create courts and appoint judges. The concept of sovereign immunity was created so that no one could use the courts. As democratic ideas evolved, governments had to be accountable. Administrative courts were created where people could hold the government accountable. That the government follows the law is the single most important aspect of the Rule of Law. It is an essential support to both human rights and democracy. Your job is one of the most important to strengthening democracy, human rights and the rule of law in Mongolia.

The JRP has conducted public opinion polls in 2001 and 2003. We asked about how the public felt about the courts. The courts were not held in high regard by most people, but their opinion got better in 2003. In the socialist era, the courts were instruments of state policy. A citizen could not expect them to protect his rights when his rights were violated by the state. This is the chief reason why the public remains skeptical about the courts. In advanced democracies, citizens do trust the courts to protect their rights from interference by the state. The citizens do not permit the government to infringe on the rights of the courts. In a democracy, the support of the people is strong enough that politicians do not dare to use court budgets to punish courts or try to interfere in court decisions. The politicians and bureaucrats would always prefer that its mistakes are ignored and un-remedied. Thus, the state will always be tempted to interfere with the Administrative courts whose purpose is to remedy mistakes by the state. Only if the citizens support the courts strongly, will the courts be able to remain independent.

To survive the Administrative Courts need to earn the respect and support of the public. The support of politicians is worthless, because without the pressure from the public, they are free to ignore the court's needs. If a politician seeks a favor from the courts, it is clear that his interest is in his own power and position, not in good government and the rule of law. If that is his interest, he cannot be depended upon to reward the courts, his own interest will always come first for him. The public has the power to make politicians respect the courts, because they elect them and can defeat them. The public as a group does not expect favors from the court, their only interest is fairness.

The courts can earn the respect and the support of the courts by being fair, and making sure that the public sees that they are fair. All judges know that it is their job to fairly follow the law. But, the idea that it is important to demonstrate to the public that they are fairly following the law is new in Mongolia.

To earn the support of the population courts need to fairly follow the law, but they also need to be transparent, so that the populations see what they are doing and how they do it, and judges need to use the transparency to show that there are not even possible grounds for suspicion. In American we call this avoiding the appearance of impropriety. Judges must not only be fair, but must avoid any situation which could give rise to a suspicion that they were being influenced. That is why judges should not meet with litigants alone. Ideally, both litigants should be present during any conversation one of them has with a judge. Judges should not socialize with people likely to come before the court, and if a social friend of the judge does come before the court, the judge should rescue himself.

Transparency means keeping all hearings open to the public and the press, unless it is clearly demonstrated that the grounds for closed hearings in the procedural codes exist. It also means that decisions must be well explained, and written in clear language that the public can understand. JICA will produce case books of court decisions and the JRP will put the

decisions in a database and make them available over the internet. This way the public can read decisions, and if they are well written, well reasoned and well explained, the public will have confidence that they were correctly decided.

It will of course take a long time to build the respect of the public. Unfortunately, even one bad decision can set the courts back. But the courts are off to an excellent start. Because the Administrative Courts deal with decisions of government agencies, and the public believes that government officials unfairly influence decisions, then your ability to rule against the government when it is wrong is an excellent way to demonstrate your independence.

Most of your decisions are made by a panel of judges. In the common law countries, where one member of a panel disagrees with the majority, he will write a dissenting opinion. I am told that this is possible in Mongolia, but that it is never done. This is too bad because dissenting opinions demonstrate that each individual judge is independent. You may think that dissenting opinions are disrespectful of the majority decision, but in fact they increase the respect for all decisions because they demonstrate how independently thinking all judges are.

I urge you to demonstrate your independence to the public and to be transparent and above suspicion at all times. If you do this, Mongolia will develop the rule of law, human rights and democracy and be among the most successful countries in the world. It is in your hands.

**Summary Report**  
**Court Management and Administration Study Tour to the US**  
**May 1 – May 22, 2004**

The original plan for the study tour had called for sending the JRP Program Coordinator and one court administrator to US. Following USAID's suggestions, two additional members of the court management and court administration working group were selected to participate in the study tour to increase the likelihood that the information gained in the US will be transferred into the conceptual development for Mongolia. Study tour preparations began in late January 2004. The focus for the program content was to provide the participants first with indebt knowledge of one of the core elements of efficient court management – caseload management – followed by on-sight observations and job shadowing at different courts in the US to experience different approaches to structure, administer and manage court processes and develop court policies.

During the first week of the study tour, the participants were briefed on the organization of the NCSC and its mission to provide education, research, information sharing, and technical assistance to the U.S. state courts and justice systems around the world and on the structure of the U.S. state and federal court system, their jurisdictions and relationships to each other. The outlining of the state and federal court system was critical in understanding the procedures and methodologies used by the U.S. courts. Also, the NCSC presentation highlighted the diversity that exists within the various state courts, the manner in which judges are selected, and the manner in which the courts are administered.

The presentation was followed by a three-day workshop on Fundamentals of Case Management taught by Mr. F. Dale Kasperek, Jr. that covered all aspects of case management: judicial commitment and leadership, standards and goals, controlling continuances and avoiding backlogs, etc. This workshop expounded that the cooperation and teamwork of the Chief Judges and court administrators is essential in smooth and efficient operation of courts. The participants also learned that unnecessary delay causes injustice and hardship that is the primary cause of diminished public trust and confidence in court.

In the next two weeks, the theoretical knowledge was strengthened by follow up tours to the Virginia, Maryland, and Washington, D.C. courts where the participants were able to observe the case management in real terms: different responsibilities of law clerk and administrative clerk, exact-time docketing system, video-conferencing in trial, multi-door mediation programs, and other aspects of the American courts. Each court has its own specifics depending on the jurisdiction and case numbers and caseload; however, the basics and values of all courts are same and are aimed to more efficient and effective delivery of justice.

Besides the tours and job shadowing in courts, the participants visited the detention centers where outreach and alternative sentencing programs, magistrates' duties, and the procedure of arrest and detention were observed. It was very important to familiarize the participants with the arrest procedure and the cooperation of detention centers with courts, because the arrest and detention procedure was just recently endorsed in Mongolia and there are still gaps in the procedures and different interpretation of the application.

After the return, the participants will prepare a detailed report with their recommendations on improving the concept of court administration and management in Mongolia, share their knowledge with the other members of the working group, and develop the action plan to apply the obtained knowledge and recommendations.

**Mongolia Judicial Reform Program**  
*managed by the National Center for State Courts*

**Assessment and Recommendations by the Informal Leadership or Professional  
Association Consultant  
October 2004**

**1. Preliminary remarks**

Since the Scope of Work says that the consultant will report to the Chief of Party and it was understood that the report will be treated by him confidentially, this report is written in the finite verb.

This is the third time that I am in Mongolia. The first time was in December 1997 in the framework of a programme on court administration for judges and administrators from Central Asia, financed by the United States Agency for International Development (USAID), in cooperation with the Constitutional and Legislative Policy Institute (COLPI) in Budapest.

The second time was in October 2000 as a reporter for the Presidency Committee of the International Association of Judges (IAJ) to report on the application of the Association of Judges of Mongolia, made by letter of 8 June 1998, for membership of the IAJ.

According to the Scope of Work, I would work closely, besides the Project staff, with a group of selected informal leaders of the Judiciary, and the consultancy would aim to assist that group to bring a new stage to the activities of the existing Association of Judges of Mongolia in order to:

- begin the developing of a new understanding of being a possible powerful tool for increasing the independence of the Judiciary;
- enhance the role and participation of individual judges in policymaking;
- eliminate "top-down" management style, which discourages participation and initiative;
- increase transparency in the decision-making process in the Judiciary;
- improve working ties and prompt exchange of information among judges throughout Mongolia.

On arrival in Mongolia this group of selected informal leaders of the Judiciary, also called in the Scope of Work the working group, turned out not to exist yet, so that two of the three tasks, mentioned in the Scope of Work, namely train members of the working group on informal leadership and develop an Action Plan with members of the working group, could not be performed. Nonetheless, I will go into these matters and will work out some ideas in the framework of elaborating the possibility of increasing the role of the professional judges association.

Much attention I will give to the independence of the individual judge and I will work out ideas to strengthen that independence and to improve the prestige of the judge in the eye of the public.

## **2. Assessment**

Since it was my main task during my visit to Mongolia in October 2000 to assess the independence of the Mongolian Judiciary, I had some prior knowledge of the composition of the Judiciary and its functioning, and of the position of the individual judge. At that time it was my view on the basis of my investigation that a number of constraints impeded the Judiciary's ability to play its important role in achieving the objectives of the legal reform, particularly those relating to building a civil and democratic society with full adherence to the principle of respect for human rights and the rule of law. These constraints included in my view lack of knowledge of the principles that govern the new legal framework, lack of quality control, lack of transparency in the decision-making process and in the publication of judicial decisions, lack of adequate facilities and lack of a data base on legislation and court decisions. Working conditions of judges (housing, salaries, transportation, etc.) were bad.

Although I notice an enormous change and an enormous progress in different fields of the Mongolian society, compared with the situation in October 2000, it seems to me after consultations with various judges, advocates, a Deputy Prosecutor General, the Executive Secretary of the General Council of Courts and members of non-governmental organisations, that there is, besides a tremendous improvement of facilities, like computerization of the courts and training of judges, a certain standstill in the development within the Judiciary with regard to the independence of the judge.

- Still there are doubts with respect to an independent decision-making process because judges are easily influenced by parties in the process.
- Still there is concern with regard to the integrity of the judge.
- Still judges reportedly are inclined to choose the side of the government or the public prosecution at the expense of the accused or the defendant, instead of deciding the case objectively and impartially.
- Still there is a strong hierarchy within the Judiciary with the Chief Justice of the Supreme Court as the ultimate boss.
- Still there exists besides the normal system of appeal a way of review or control of the decisions of lower court judges by higher court judges, which is hardly compatible with the independence of the individual judge.
- Still the Association of Judges of Mongolia plays no role whatsoever in safeguarding the independence of the Judiciary and the individual judge.

We all know how important judicial independence is. Meaningful independence (and public perception of that independence) is essential to the judiciary's legitimacy as a guarantor of rights and freedoms. If the judiciary is not independent of the executive and legislature, it cannot properly restrain those branches. If courts are not seen as independent (and impartial), citizens will not turn to them to resolve their problems, but may seek recourse through political or extralegal means.

The importance of judicial independence extends further. Economists have noted the importance of an independent and impartial judiciary to a stable and prosperous economy. Individuals and institutions must be able to rely on predictable justice – free of the vagaries of political interference or economic influence by either party – in the adjudication of their claims. In societies struggling to reform their economies like Mongolia, judicial independence contributes to the confidence, security and predictability of economic transactions.

It is time for an investment in depth in the development of the independence of the Mongolian Judiciary. All the improvements of the facilities and all the training efforts, necessary and valuable though these are, have not brought about a change of culture within the Judiciary, which is necessary to meet the new circumstances in society. Clearly this can not be done with the existing structure of command within the Judiciary and the current style of management. The fact that the Chief Justice of the Supreme Court is holding all the key positions in the Judiciary – he is also the Chairperson of the General Council and the President of the Association of Judges of Mongolia – is together with his personal style of management – according to the Executive Secretary of the General Council he acts as a dictator and a tyrant – an obstacle to achieve such change of culture. Other ways must be found within the Judiciary to break open the existing situation. From my experience as a leading expert for the European Commission in assessing the independence of the judiciaries in the Central and Eastern European candidate member states of the European Union, I know that this will not be easy and that sometimes a crisis is needed to achieve the necessary changes. That does not mean that a judicial crisis must be provoked in Mongolia, but it emphasises the necessity to persistently continue with efforts to change the system.

### **3. Recommendations**

I will distinguish the recommendations in three categories of capacity building and empowerment: institutional, individual and associative.

#### ***institutional***

- a. Abolish, outside the case of an appeal, the review or control by judges of a higher court, in the framework of an evaluation of qualification and professional skills, of judges of a lower court, and replace that review by intervision (i.e. intercollegial monitoring without consequences for position or career), coaching of younger judges by more experienced judges of the same court or intercollegial discussions of cases and decisions.<sup>1</sup>
- b. Provide good standard procedures to avoid all kind of influences. Make a standard formats book (also digital) with the existing Bench book as a model.

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<sup>1</sup> Individual judges' freedom to decide cases before them as they see proper can be affected not only by the legislature and executive, but also by actors within the judiciary itself. International standards reaffirm the decisional independence of individual judges, who may feel constrained in the exercise of their independent judgement by the expectations of higher courts if, as is often the case, members of those courts exercise control over the career path of lower judges. Higher judges may influence lower court judges through informal "consultations" which, though not always violating a judge's independence, do limit transparency and accountability in the decision-making process.



- c. Since all the courts are computerised, provide them by means of the internet with new legislation and jurisprudence.
- d. Encourage the publication of court judgements with commentary by legal professionals.
- e. Stimulate monitoring of court procedures and writing on that in newspapers or professional law journals by journalists or law students.
- f. Work on more transparency of the methods of working of the judiciary in order to be ahead of criticism from outside.
- g. See to good relations between the judiciary and the media.
- h. Mobilize the Bar – the Association of Mongolian Advocates - as one of the pillars of the administration of justice and use it as a tool to improve the quality of justice.

### *individual*

- i. Organise empowerment training for regular judges and explain to them what independence really means. Teach them how to be firm opposite higher judges, given the existing hierarchy of the Mongolian Judiciary.
- j. Make judges convinced of the role and the position they have in relation to the other players in the administration of justice.
- k. Organise training in (informal) leadership for presidents of all courts of equal instance per aimag, keeping the influence of the Supreme Court and other hierarchical relations outside.
- l. Improve the system of recruitment and selection of new judges and promotion of judges by establishing a broadly composed selection and promotion committee, indeed under the responsibility of the General Council, but operating separately, which uses neutral, clear and transparent criteria for selection and promotion.

### *associative*

Reportedly the Association of Judges of Mongolia exists only on paper and develops no activities. All judges are automatically member of the association and pay automatically a membership fee. The association is presided by the Chief Justice of the Supreme Court, which is not self-evident and rather unwise. Because the president of the association presides also the Supreme Court and the General Council, the association can not and does not play the role it has to play as an organisation independent of the judicial hierarchy, which stands up for the interests of all its members and for a good, efficient, uniform and comprehensible administration of justice in Mongolia.

Being the situation as it is, there are ways to breathe (new) life into the association and to consolidate its position, which I will describe in the following recommendations.

- m. Create some working groups under the chair of young, ambitious and innovative judges<sup>2</sup>, which formulate *inter alia* practical goals of the association, activity plans and short and long term planning, who prepare annual meetings of the members of the association, and who create a newsletter of the association.
- n. Look for funds to give some of the chairpersons of the working groups the chance to do a work placement practice in a country with a good functioning association of

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<sup>2</sup> You know better than I, but judges like Urantsetseg of the Songinokhairhan district court, Battseren of the Suhbaatar district court and Tsogt of the administrative court seem to me attractive candidates.

judges, *e.g.* in Germany (Deutscher Richterbund) or The Netherlands (Nederlandse Vereniging voor Rechtspraak).

- o. Introduce the possibility of membership of another association of judges, like MEDEL or the International Association of Women Judges and invite representatives of those associations to Mongolia to assist the working groups.<sup>3</sup> Those associations can form a counterbalance against the by the Chief Justice of the Supreme Court dominated Association.

Besides the existing associations it is recommendable in a country like Mongolia to create a new network of young, creative and innovative judges with good ideas. The aim of such a network is to use bottom-up initiatives to strengthen the efficiency and effectiveness of the administration of justice. As example can serve the so called "Aladdin-formula", which was used in the courts of The Netherlands.

It works as follows:

- select per aimag a small group of young ambitious judges. Give judges the opportunity to put themselves forward;
- let them make a list of essential ideas to make the work of the judge more effective;
- give at their disposal a small budget to realise those ideas;
- give these groups facilities, like an internet connection;
- from the intended network from representatives of the groups.

In The Netherlands this formula obtained amazing results.

Ulaanbaatar, October 14, 2004

Mr. Paul W.M. Broekhoven

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<sup>3</sup> I can help you with that, by providing names of suitable persons.

**To:** Robert La Mont, JRP COP  
**Cc:** L. Zaya, GTZ Project Leader  
**From:** Urana D.  
**Date:** March 2, 2004  
**Ref:** The report of the Prosecutor Software Training

The three parties, the GTZ, JRP and GPO, have concluded the Memorandum of Understanding in order to provide additional training on prosecutor software in four pilot prosecutor offices. The JRP have organized the trainings in below consequences:

On January 12 - 13, the trainings on software were conducted at Songinohairhan district  
January 14-15 at the CCC PO;  
February 9-12 at Dundgovi aimag Prosecutor Office;  
February 25-27 at Darhan aimag Prosecutor Office.

At the beginning of each training session, the Prosecutor officer introduced the General Prosecutor's order on usage of software "Prosecutor 2003". The procedure defines in detail the requirements of every prosecutor (have basic computer knowledge, be active in trainings, be willing to improve the usage of the computer and software); the steps of using the software; how to use in network; how to input data and save it; save operation and maintenance of equipment; responsibilities of system administrator. Every prosecutor signed up the sheet acknowledging the fact that they have been introduced to the procedures. The GPO Officer also announced that the main goal of the 2004 year of the Prosecutor Offices is the Prosecutor Software. The Prosecutor Offices will officially start using the software from the 1<sup>st</sup> of May. Therefore, two officers of the GPO (in charge of software) will install the software and conduct respective trainings in all remaining Prosecutor offices during March - April. At the end of the year, every prosecutor's ability to use computers will be linked in performance evaluation.

The first day of the training was devoted to a general training on software for all prosecutors. The following day was for on-job individual training based on category of each prosecutor's supervisory activities. Every trainee received handout/manuals on the software. The training on prosecutor software was organized for more than 80 prosecutors in total.

The training in Darhan prosecutor office completed the series of trainings on prosecutor software for the pilot prosecutor offices.

In addition to the abovementioned trainings which were organize in cooperation with the GTZ and GPO, the JRP assisted the GPO in holding an additional training for newly recruited support staff in UB. The JRP covered some transportation costs of trainees who came from far western aimag prosecutor offices on the request of the GPO.

## Feasibility study on teleconferencing

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## **1. Research methodology**

**The aim of the feasibility study** is to determine a sustainable model for teleconferencing facilities. The study consists of studies on current situation of teleconferencing possibilities, possible technical solutions, its management models, cost and benefit and quality analysis, potential users and investors. The report could be a useful reference for all stakeholders starting from its users to investors.

The feasibility study was conducted (1) in the form of meta-survey of legal, regulatory and other policy documents, (2) interviews and meetings with government, non-government, private and donor organizations; (3) site visits to selected aimags (4) using existing teleconferencing facilities for interview and (5) analysis of management model, technical solution and finances.

1. The meta-survey was based on existing research studies conducted by other researchers in this field, namely IDRC funded "ICT Policy research" of policy and regulatory documents. Since "ICT policy research" paper was looking for any indication of ICT related legal and regulatory frameworks and it had little reference to teleconferencing, the team had to review all policy documents again.
2. For interviews and meeting, the team has selected stakeholders, who were, interested and might be involved in their past, current and future initiatives and projects in this area and also potential users and investors from Ulaanbaatar and rural areas.
3. The preliminary selection of the site visits to aimags were based on the types of connectivity existing in Mongolia: 1) along railway 2) having microwave, 3) MFOS supported cyber-aimag project, 4) air fiber-optics, namely Dornogobi, Dundgobi, Khovd and Khuvsgul aimags. However, due to the cases of mouth and feet disease, the team has changed its direction to Selenge and Khovd aimags for their field trips.
4. For interview, the team tested teleconferencing facilities with Arkhangai aimag and interviewed a representative of participant for tele-training of retraining teachers from Uvs in Ulaanbaatar, which was the first retraining program held by the distance education center of the MOECS at the Telecommunication and Information Technology of MUST.
5. In terms of management, the model of government (former citizens information service center), non-government and private entity models were analyzed. The possible technical solutions for teleconferencing facilities were defined and the most feasible for Mongolian situation model was analyzed.
6. Moreover, the team has looked at break-even point for users, who would be willing to use teleconferencing facilities. For this purposes the cost and benefit analysis has been completed and the costs of traditional training and using teleconferencing facilities were compared. For the calculation of overall efficiency of teleconferencing facilities from point of view of investors, the return on investment issue was considered and certain calculations were made.

## **2. Current situation**

### ***2.1. Legal framework***

#### **Policy documents**

The "Policy and regulatory framework" project of IDRC<sup>i</sup> conducted at MIDAS, NGO<sup>ii</sup> and a team at Computer Science and Management School of Mongolian University of Science and Technology in 2003-2004, has released first report on "policy and regulatory framework", which reviewed over 51 laws, 11 resolutions of Parliament of Mongolia, 4 orders of President, 67 resolutions of Government of Mongolia, 76 orders of Ministries of Mongolia and 31 orders of directors of government agencies. According to this report, there are over 19 laws, 8 resolutions of Parliament of Mongolia, 48 decisions of Government, 58 orders of Ministries were issued only since 1996 related to information and communications technology issues. Most of these policy documents were issued for regulation of legal framework of ICT area.

Among these policy documents, only few address (and not fully) issues of use of ICT in distance communication, such as:

- In the laws on "State security", "Company security" and "Laws to approve the list of state security matters", it was stated the security issues related to distribution of radio waves bandwidths;
- The law on "Radio wave" regulates communication issues of distribution, usage, protection, ownership and possession rights of radio waves.
- The law on "Telecommunications" regulates communication between state and service providing organizations, citizens, entities on matters related to setup of telecommunication network, usage and protection.
- In the law on "Civil registration" it refers only to how to setup civil registration and information unified network;
- In the resolution of Parliament of Mongolia No. 80 from November 22, 2002 at directions of "Economic and Social development of Mongolia in 2003", it is indicated the measures to use electronic network for transmission of information during natural disaster;
- In the decision of Government No. 45 of April 1, 1998 "Some measures to take regarding Internet", it was decided to implement project "Common Information system of Galactic satellite Internet system";
- By decision No. 32 of March 11, 1998, the decision was made to use international satellite network Intelsat for nation-wide broadcasting of National TV;
- By decision No. 135 of June 27, 2001, the decision was made to "Transfer some equipment of projects implemented by grant funds to Mongolian Telecommunications company";
- By order No. 14 of January 25, 2002 to "Approve of national program on distance education", it was stated to select the most optimistic method to use for distance education;
- By degree No. 138 of July 18, 2003 of Minister of Education, culture and science "To implement National program of distance education", it was identified 38 activities to be implemented.

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<sup>i</sup> IDRC – International Development Research Center of Canada

<sup>ii</sup> MIDAS NGO – Mongolian Information Development Association, NGO established in 2001 and conducting activities in information and communications technology field.

- In the law on “Water, weather and environment monitoring”, it stated the use of ICT for transmission of water, weather and environment related information without disruption using local and international channels;

### **Government organizational regulation**

The information and communications technology department (ICT Department) of Ministry of Infrastructure implements government policies in information and communications technology area, which covers telecommunications and Internet areas.

The Communications and regulatory committee (CRC) is a Government implementing agency, which regulates issues of licensing, registration, coordination of service providers and others.

The Post and Telecommunications Authority (PTA) has been established in 2000 to regulate post and telecommunications projects and activities and responsible for national backbone of telecommunications network.

## ***4.2. Infrastructure***

### **2.2.1. MOECS distant education center**

The project started in December 2003 supported by Public administration reform project of Government of Mongolia and ADB<sup>iii</sup> and implemented by Telecommunications and information technology school of MUST<sup>iv</sup>.

It has connected 13 aimags: Dornod, Sukhbaatar, Khentii, Dundgovi, Bayankhongor, Arkhangai, Gobi-Altai, Khovd, Bayan-Ulgii, Orkhon, Darkhan-Uul aimags and Ulaanbaatar (see attachment 2). The facilities are available at premises of non-formal education centers at Education and Cultural departments of each aimags. This includes 2 computers, printer, scanner, 29” color TV, Video-player, TANDBERG 550 – distance education system.

The ISDN network of 128 kbps is used. All equipment is Internet protocol enabled (IP). The current capacity of distance training system is 440-480 persons total, including 140-180 persons in Ulaanbaatar, 300-320 – in 12 aimags.

The center uses different types of transmission, such as on-line, video-voice transmission, file transmission, document camera, data and records from video-cassette, CDs and floppy disks.

The system has the following technical capacities:

- development of database of training materials
- information data base on training conducted
- archiving in VCD and DVD formats
- local area training centers replay of recorded training.
- Video-conferencing

Internationally, it has VSAT connection to India at 168kbps.

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<sup>iii</sup> ADB – Asian Development Bank

<sup>iv</sup> MUST – Mongolian University of Science and Technology

### **2.2.2. Railcom Co.Ltd**

The Mongolian Railway communication network has 1405 km fiber-optic digital transmission system from south to north, which covers 55 automated digital connection fixed points along railway. It was connected to China Telecom in December 2000 and from 2001 it is connected to Trans Telecom of Russia. This connection allows connection between Hong Kong to London on land-line connection, which is much faster than submarine fiber-optic used before. It started Internet service from August 2002. It enables interconnection between China and Russia as transit carrier. It leases its backbone to Mobicom, Mongolia Telecom, Skytel and some ISPs. The Internet service provision is done through RailCom Co. Ltd, as a business entity of Railway authority. The government uses 4 pairs of fiber optic for public use, which goes through territory of three aimags – Dornogovi, Darkhan-Uul and Selenge aimags.

The Railcom has tested their network for local teleconferencing at Sukhbaatar, Zamyn-Uud, Railway Authority and Ulaanbaatar railway through Polycom equipment. Mainly they are planning to use it for their internal communication and considering marketing this service to others, but so far no tariffs are developed yet. It was first test using Internet Protocol network for teleconferencing. Their network is limited to coverage along the railway line.

### **2.2.3. MoFE Treasure Fund network**

Fiscal Technical Assistance (Fiscal TA) project started in 2003 to enable supply, customization, installation and support of Government Financial Management Information System (GFMIS).

The project was implemented at Ministry of Finance and Economy with a loan from World Bank. The main contractor is IBM Business Consulting with two major sub-contractors – MCS Electronics of Mongolia and Freebalance of Canada.

The purpose of the project is to connect Central Treasury office of Ministry of Finance and Economy with 11 Ministries, treasury offices in 9 districts of Ulaanbaatar city and 21 aimags' Regional treasury offices to enable exchange of data and information between treasury offices and ministries.

To connect treasury offices in 9 districts of Ulaanbaatar and 21 aimags' regional treasury offices, the different connectivity models were used:

- high-speed fiber optic connection was used to connect MOFE, Ulaanbaatar treasury office, Ministry of Infrastructure, Ministry of Labour and Social Security and Ministry of Industry and commerce;
- DSL<sup>^</sup> modem connection with Cabinet secretariat
- Radio modem connections with remaining ministries and 6 districts and
- VSAT connections to 21 aimags and 3 remotely located districts (Bagakhangai, Baganuur and Nalaikh)

VSAT connection for connection with 21 aimags and 3 remotely located districts has capacity of 256kbps at each location, which are used only 30% of their total capacity. During meeting with staff of MCS Electronics, it was stated clearly, that remaining capacity could be used for teleconferencing if necessary equipment for it would be installed at each location of VSAT connection.

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<sup>^</sup> DSL – Digital Subscriber Line.



## 2.2.4. Mongolia Telecom

### Transmission network

The Transmission Network of Mongolian Telecommunications has been undergoing rapid technical and technological changes in the last few years. At present, around 30 percent of the National Microwave Transmission network has been digitalized using mainly foreign and international loans.

### Long Distance Transmission Network

The existing transmission backbone network consists of terrestrial Microwave, satellite communication VSAT<sup>vi</sup> systems and Optical fiber system.

First digitalization of the analog microwave system was implemented in the northern part of Mongolia, according to which, the new digital microwave SDH<sup>vii</sup> system on the main route, the PDH<sup>viii</sup> system to the Spurs by connecting 2 main cities and 3 aimag centers with Ulaanbaatar were installed.

Currently, there are 13 aimag centers and 9 soum centers, which are connected through VSAT system.

The project on the installation of 1700 km long optic fiber cable network with SDH system along the Railway Road from north to south of Mongolia was completed in 2001.

Within the framework of T- 2,3 Project, the new digital switches of Baganuur, Choir and Sainshand cities are planned to get connected to this optical fiber network are connected. Under the same conditions, there are being set the preconditions for connecting the Darhan, Erdenet and Suhkbaatar cities to this optic fiber cable network as an alternative transmission backbone route.

The following table shows the facilities of toll transmission system.

### Toll Transmission Facilities:

<i>Transmission System</i>	<i>Microwave System</i>		<i>Satellite Stations</i>			<i>Length, (km)</i>
	<i>Terminal station</i>	<i>Repeater station</i>	<i>Type I</i>	<i>Type II</i>	<i>Type III</i>	
<i>Digital microwave</i>						
Northern Route	9	12				877
<i>Analog microwave</i>						

<sup>vi</sup> VSAT – Very small aperture terminal. It is an Earth station with a small antenna usually 0.9-1.8 meter (3-6 feet) in diameter. It is typically used in point-to-multipoint data networks.

<sup>vii</sup> SDH – synchronous digital hierarchy

<sup>viii</sup> PDH – Plesiochronous digital hierarchy

Eastern Route	4	12			814
Western Route	4	24			1,169
Southern Route	4	17			971
<b>Satellite VSAT system</b>					
Ulaanbaatar			1		
Aimag center				4	
Soum				4	
<b>Open wire system</b>					
Long Distance					4070
Local					17807 (30 000)
Total	21	65			

### Local Transmission Network

The junction transmission network of Ulaanbaatar city consists of Optical Fiber Cable links connecting 3 host exchanges with 622 Mbps SDH system and RSUs<sup>ix</sup> with 34Mbps, 144Mbps of PDH system.

The Ulaanbaatar optical cable network has been already expanded to Nalaib and Zuunmod through PSTN.<sup>x</sup>

### Rural communications system

The rural communication network has over 30 thousand kilometers of long open wire link, with 1-12 lines each, which is connecting 342 soum with aimag's centers. These are operating over 230 telephone exchanges to which over 8,277 subscribers are connected. There are 9 soums connected to the rural communications network through satellite communications network and 5 soums (Altanbulag, Khetel, Zuunkharaa, Jargalant, Ulaan tolgoit) through small capacity digital microwave link .

The telephone branches of 80 soums operate on solar energy batteries.

### National broadcasting network

Mongolian national broadcasting network includes: one national TV broadcasting network via Intelsat, TV broadcasting via Stationar and Gorizont (as a second program from Russian TV ), FM transmitter and wire radio network, Cable TV network.

For the national distribution throughout entire country, the satellite system Intelsat-704 is used with OIRT<sup>xi</sup> D/K standard, with SECAM and PAL the color systems for national TV. The types of sound broadcasting are mono and stereo.

For the distribution of national and TV program, the 303 "ABEP" 10W transmitters 32 "RSTA" 100W TV transmitters and 295 "Ekran" transmitters with 1W are used, which used for the transmission of one Russian TV program to aimag and soum centres

<sup>ix</sup> RSU – remote switching unit

<sup>x</sup> PSTN – Public Switch Telephone Network

<sup>xi</sup> Organization for International Radio and Television

## INTERNET NETWORK OF “MICOM Co., Ltd”

As a preparation to competitive environment, the Mongolian Telecom (MT) had to be prepared for the introduction of value added services and the Internet project was one of steps toward this direction.

The Micom Co.Ltd., established in 1998 as a subsidiary of Mongolia Telecom, is a second data communication service provider of Mongolia, which started the full commercial Internet services in March 1999.

The company introduced the Internet backbone<sup>xii</sup> network (TCP/IP<sup>xiii</sup> Network) by installing the Internet gateway in Ulaanbaatar and connecting it to the Internet through Global One's GIP<sup>xiv</sup> Node in Hong Kong via Intelsat satellite with 8Mbps (5 Mbps upload, 3 Mbps download) bandwidth.

The Micom Internet node is equipped with following equipment:

It uses the SOLARIS<sup>TM</sup> operating system and hardware system of Sun Microsystems Corporation. The Internet gateway uses CISCO 7500 series of High performance, High end router and CISCO 5300 routers.

The ASCEND 4060 terminal servers and Ultra-Enterprise High performance Servers of Sun Microsystems Corp. are used for Web, Mail, FTPs<sup>xv</sup> ....

Service categories:

- Dial up service, E-Mail, News, WWW, FTP...
- World IP
- System Integration Service
- Domain Name Registration

### 2.2.5. Incomnet

The Incomnet is a private company established in 1999 to establish VSAT network throughout Mongolia and provide public and data communication networking services within country. It is aiming to create metropolitan area networks in main cities based on SHDSL<sup>xvi</sup> technology on copper wire and high-speed data and VoIP services on 5.2 GHZ wireless system. For their international access, they are leasing high-speed line through satellite.

Their wireless network has capacity of 54mbps in 10-12 kms. The IncomNet provided services for Banks (Agricultural, Trade and Development, Erel, Savings, Anod and Zoos), some governmental agencies, such as Customs department and private companies, such as M-J LLC.

Currently, they cover 60 sites throughout Mongolia.

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<sup>xii</sup> backbone – the part of network, which connects other networks together

<sup>xiii</sup> TCP/IP – Transmission Control Protocol/Internet Protocol

<sup>xiv</sup> Global Internet Project

<sup>xv</sup> FTP – File Transfer Protocol

<sup>xvi</sup> SHDSL – Single-line High-bit-rate Digital Subscriber Line

#### **2.2.6. Others**

There are a number of initiatives by Ministries and governmental agencies on utilization of information technology for Distance education and Telemedicine. For example, in May 2000, the pilot test of tele-video conferencing was done using Japanese Hospital system connecting Murun-Ulaanbaatar-Tokyo cities through VSAT connection. With support of Luxemburg, the distance diagnosis of heart diseases using heart record project is currently implemented connecting heart and vein diagnosis center of 3<sup>rd</sup> General hospital with Selenge and Darkhan-Uul aimags. These projects are not building infrastructure, rather they are using existing infrastructure.

There is a GDLN (Global Development Learning Network) established in May 2002 at World Bank office in Ulaanbaatar. It connects World Bank office in Mongolia to World Bank HQs Global Learning network of 62 centers. It mostly used for operational support of resident mission of World Bank country offices and for some teleconferencing communication of decision makers within World Bank activities. It has international connection but no local sites connected to it.

The Academy of Management, which is responsible for retraining of public servants, is introducing distance education learning project via web-based technologies. They are going to establish distance education centers at 5 aimags: Darkhan-Uul, Dornod, Uvurhangai, Dornogobi, and Orkhon aimags. They will use Internet as a tool for communication with those aimags.

### **3. Needs assessment**

The team determined potential users of teleconferencing facility as following:

- Governor's offices
- Schools
- Tertiary Education Institutions
- Banks
- Hospitals
- Donors
- NGOs

The possible use of teleconferencing technology might be the following:

- Staff retraining
- Teleconferencing – discussion, communication with senior staff and staff at local branches, face-to-face meetings, etc.
- Telemedicine
- Distance learning
- Distant interviews
- Distance monitoring

Currently, in most cases, the headquarters of entities which are located in Ulaanbaatar, are responsible for initiating communication with branch offices, since the cost of communication is cheaper than initiating it from aimags or branch offices to Ulaanbaatar. Generally, most organizations conduct seminars, workshops and meetings in Ulaanbaatar at least 1-2 times per quarter and are bringing in staff of branches to Ulaanbaatar – covering their transportation and per diems costs of participation in

training/seminars/workshops. However, there are situations when there is a regional training, workshop or seminar organized in centrally located places (aimags). In this case, the 1-2 trainers travel to countryside to conduct training/workshop/seminar.

Still, in any circumstances, it was indicated by interviewees, that there is an interest from participants to come physically to Ulaanbaatar, because they would like to use this opportunity to combine it with other business and private needs.

For organizations, which involve great number of trainees, such as education, health and other public services, the teleconferencing is more suitable in order to save indirect costs related to travel, accommodation and other expenses. The most important factor is saving time.

## **4. Analysis**

### ***4.1. Technical solution***

The possibilities of making Video Conference for Multimedia transfer using Mongolian Telecommunication Network, Mongolia Telecom, Mobicom and Incomnet companies Network have been considered.

Today, however, over 70 % of Telecommunication Backbone Network has been replaced with digital technology, some parts of Western and Eastern Network have retained as analogue system. MobiCom, as a private company, has established digital Microwave Network with speed of 34 MBps between Ulaanbaatar and Bayan-Ulgii. The VSAT Transmission system network has been built up by Incomnet and Mongolia Telecom companies throughout country. The Video Conference Network can be established by using these networks as follows:

1. To use current Telecommunication Core Network and MobiCom digital microwave
2. To use Mongolia Telecom and Incomnet VSAT Network
3. To use ISDN<sup>xvii</sup> network which was installed in State Core Network

### **FIRST VERSION**

The Mongolian Telecommunication Core Network was replaced completely with digital technology in Provinces in 2003. Uvurkhangai-Bayan-Ulgii and Choir-Umnugovi Transmission have been retained as analogue. However, digital Switching which was installed in aimag centers is connected with Network Center at soums using analogue digital multiplexer<sup>xviii</sup>. The transmission speed can be 2 MBps to build up Video connection using this network. If connection speed is low than this speed of 2MBps, the multiplexer will be required in aimag centers. The connection expenses shall be 2Mbps bandwidth of rental payment.

### **SECOND VERSION**

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<sup>xvii</sup> ISDN – Integrated Services Digital Network

<sup>xviii</sup> multiplexer - **COMPUTING device for routing data:** a device for sending several different data streams down a single communications line and for splitting a received multiple stream into component parts

The VSAT Network in whole country has been installed by Mongolia Telecom and Incomnet. It is possible that speed can be increased up to 256 KBps to build up Video connection using this network. In this case, one Satellite connection segment price shall be 460 \$ per month. The period of term of network is much shorter, however it can be located anywhere. The network reliable operation and application will be high.

### THIRD VERSION

In this draft, digital switching ISDN Network which has been installed in aimag centers shall be used. In this case, however expense for Network is low, Video transfer speed is 128 KBps. During this connection, the Mongolia Telecom local tariff can be applied.

Among proposed solutions, the third version is cheaper and appropriate today from above 3 versions.

## 4.2. Cost and benefit analysis

### 4.2.1. Break-even point analysis for users

One. Cost for retraining 1 person from each aimag center in Ulaanbaatar

#### A. Transportation cost

	Aimag	Type of transportation (airfare-1, train-2, carfare-3)	Transportation cost (1 way)	Transportation cost (2 way)	Telephone (1 min)	Index for transportation cost	Average travel days
1	Arkhangai	3	9070	18140	236	0,35	2
2	Bayan-Ulgii	1	61500	123000	266	2,37	2
3	Bayankhongor	1	33400	66800	266	1,29	2
4	Bulgan	1	21600	43200	236	0,83	2
5	Gobi-Altai	1	47000	94000	266	1,81	2
6	Dornogobi	2	7600	15200	236	0,29	1
7	Dornod	1	36200	72400	236	1,39	2
8	Dundgobi	1	19900	39800	177	0,77	2
9	Zavhan	1	48300	96600	266	1,86	2
10	Uvurkhangai	1	26100	52200	236	1,00	2
11	Umnogobi	1	33100	66200	236	1,27	2
12	Sukhbaatar	1	33500	67000	236	1,29	1
13	Selenge	2	6700	13400	236	0,26	1
14	Tuv	3	500	1000	177	0,02	
15	Uvs	1	55400	110800	266	2,13	2
16	Khovd	1	56400	112800	266	2,17	2
17	Khuvsgul	1	33400	66800	236	1,29	2
18	Khentii	1	23900	47800	236	0,92	2
19	Darkhan-Uul	2	5400	10800	177	0,21	1
21	Orkhon	2	7200	14400	236	0,28	2
22	Gobisumber	2	5300	10600	177	0,20	1
	Sum			1142940	4900		35
	Average			51951,8	222,7	1,00	1,6

B. Average per diem for one day

8000 Tugric

Cost for retraining of 1 person from each aimag in Ulaanbaatar

1 590 940 Tugric

Period of training	Day of training	A.Cost of traditional training (tugric)	B. Cost of teleconference training (tugric)	Difference of cost ( B-A)
1 Day	2,6	1 590 940,0	680 000,0	<b>-910 940,0</b>
2 days	3,6	1 758 940,0	1 360 000,0	<b>-398 940,0</b>
3 days	4,6	1 926 940,0	2 040 000,0	113 060,0
4 days	5,6	2 094 940,0	2 720 000,0	625 060,0
5 days	6,6	2 262 940,0	3 400 000,0	1 137 060,0
6 days	7,6	2 430 940,0	4 080 000,0	1 649 060,0
7 days	8,6	2 598 940,0	4 760 000,0	2 161 060,0
8 days	9,6	2 766 940,0	5 440 000,0	2 673 060,0
9 days	10,6	2 934 940,0	6 120 000,0	3 185 060,0
10 days	11,6	3 102 940,0	6 800 000,0	3 697 060,0
11 days	12,6	3 270 940,0	7 480 000,0	4 209 060,0
12 days	13,6	3 438 940,0	8 160 000,0	4 721 060,0
13 days	14,6	3 606 940,0	8 840 000,0	5 233 060,0
14 days	15,6	3 774 940,0	9 520 000,0	5 745 060,0
15 days	16,6	3 942 940,0	10 200 000,0	6 257 060,0
16 days	17,6	4 110 940,0	10 880 000,0	6 769 060,0
17 days	18,6	4 278 940,0	11 560 000,0	7 281 060,0
18 days	19,6	4 446 940,0	12 240 000,0	7 793 060,0
19 days	20,6	4 614 940,0	12 920 000,0	8 305 060,0
20 days	21,6	4 782 940,0	13 600 000,0	8 817 060,0
21 days	22,6	4 950 940,0	14 280 000,0	9 329 060,0
22 days	23,6	5 118 940,0	14 960 000,0	9 841 060,0
23 days	24,6	5 286 940,0	15 640 000,0	10 353 060,0
24 days	25,6	5 454 940,0	16 320 000,0	10 865 060,0
25 days	26,6	5 622 940,0	17 000 000,0	11 377 060,0
26 days	27,6	5 790 940,0	17 680 000,0	11 889 060,0
27 days	28,6	5 958 940,0	18 360 000,0	12 401 060,0
28 days	29,6	6 126 940,0	19 040 000,0	12 913 060,0
29 days	30,6	6 294 940,0	19 720 000,0	13 425 060,0
30 days	31,6	6 462 940,0	20 400 000,0	13 937 060,0

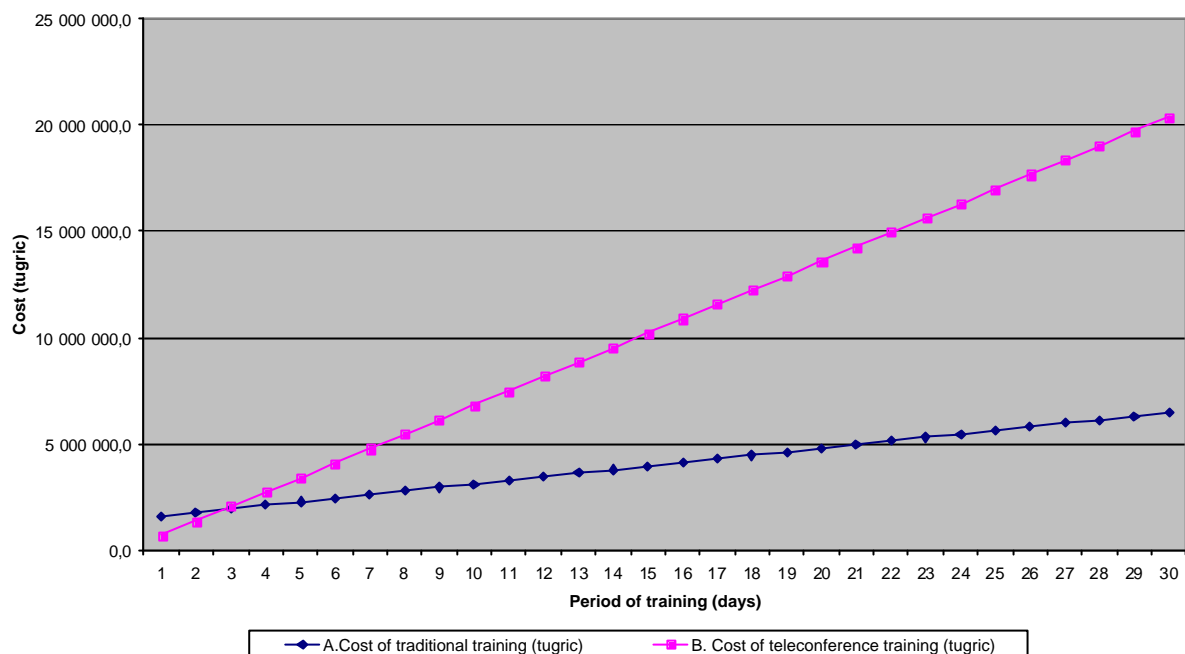
Cost for 1 hour of communication at  
teleconferencing center

85000 tugric

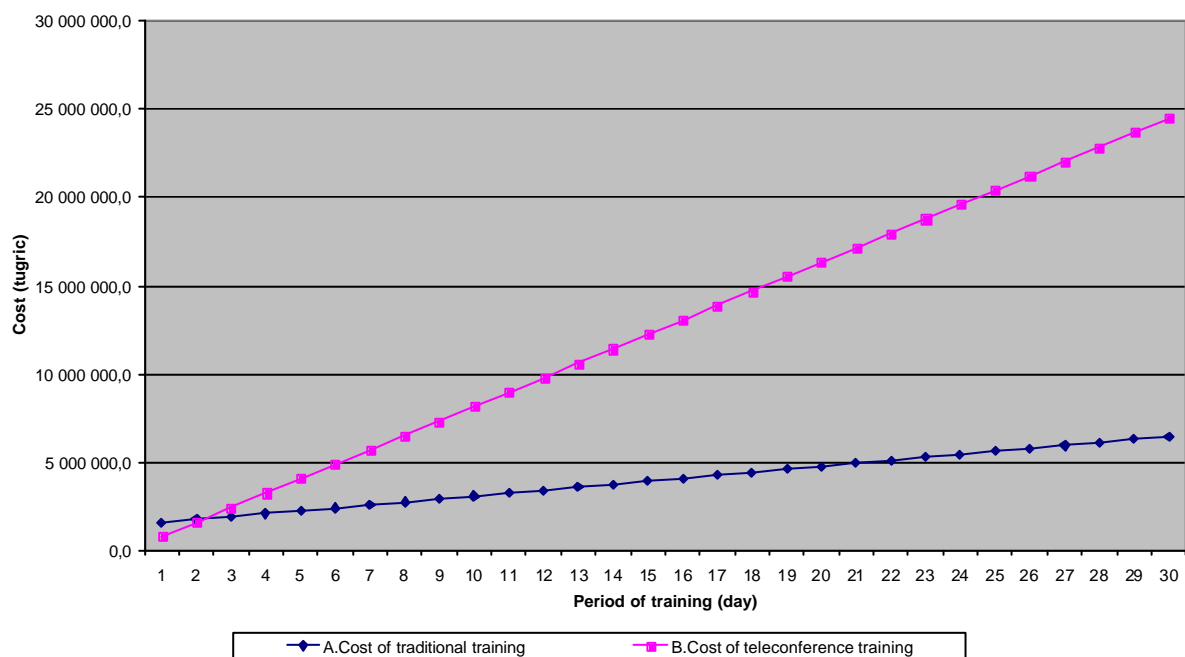
tugric



**Cost of traditional and teleconferencing training for 1 person (Version A)**



**Cost of traditional and teleconference training for one person from each aimag (Version B)**



Period of training	A.Cost of traditional training	B.Cost of teleconference training	Difference og cost (B-A)
1 Day	1 590 940,0	816 000,0	<b>-774 940,0</b>
2 days	1 758 940,0	1 632 000,0	<b>-126 940,0</b>
3 days	1 926 940,0	2 448 000,0	521 060,0
4 days	2 094 940,0	3 264 000,0	1 169 060,0
5 days	2 262 940,0	4 080 000,0	1 817 060,0
6 days	2 430 940,0	4 896 000,0	2 465 060,0
7 days	2 598 940,0	5 712 000,0	3 113 060,0
8 days	2 766 940,0	6 528 000,0	3 761 060,0
9 days	2 934 940,0	7 344 000,0	4 409 060,0
10 days	3 102 940,0	8 160 000,0	5 057 060,0
11 days	3 270 940,0	8 976 000,0	5 705 060,0
12 days	3 438 940,0	9 792 000,0	6 353 060,0
13 days	3 606 940,0	10 608 000,0	7 001 060,0
14 days	3 774 940,0	11 424 000,0	7 649 060,0
15 days	3 942 940,0	12 240 000,0	8 297 060,0
16 days	4 110 940,0	13 056 000,0	8 945 060,0
17 days	4 278 940,0	13 872 000,0	9 593 060,0
18 days	4 446 940,0	14 688 000,0	10 241 060,0
19 days	4 614 940,0	15 504 000,0	10 889 060,0
20 days	4 782 940,0	16 320 000,0	11 537 060,0
21 days	4 950 940,0	17 136 000,0	12 185 060,0
22 days	5 118 940,0	17 952 000,0	12 833 060,0
23 days	5 286 940,0	18 768 000,0	13 481 060,0
24 days	5 454 940,0	19 584 000,0	14 129 060,0
25 days	5 622 940,0	20 400 000,0	14 777 060,0
26 days	5 790 940,0	21 216 000,0	15 425 060,0
27 days	5 958 940,0	22 032 000,0	16 073 060,0
28 days	6 126 940,0	22 848 000,0	16 721 060,0
29 days	6 294 940,0	23 664 000,0	17 369 060,0
30 days	6 462 940,0	24 480 000,0	18 017 060,0
Cost of communication at teleconference center for one hour	102000	tugric	tugric

#### 4.2.2 Financial analysis for teleconferencing facilities

A/ Calculation of expenses necessary for setup teleconferencing facilities:

No.	Types of expense	Quantity	Unit price (thousand MNT)	Total price (thousand MNT)
1	Setup of main teleconferencing facility in Ulaanbaatar	1	110.0	110.0
2.	Set up of teleconferencing facilities in 12 aimag centers	12	10.8	129.6
3.	Cost of installation of new 6 centers in 2004	6	10.8	64.8
4.	Cost of branch office equipment setup at MOECS	1	22.5	22.5
	<b>TOTAL COST</b>			<b>326.9</b>

B/ Total cost of using teleconferencing facilities for 600 hours per year (75 days)

No.	Types of expense	Quantity	Unit price (thousand MNT)	Total price (thousand MNT)
1.	Cost of connection from Ulaanbaatar to teleconferencing centers in aimags	600	85.0	51000.0
2.	Other ongoing expenses for teleconferencing center in Ulaanbaatar (maintenance, staff salaries, etc.)	1	9000	9000.0
	<b>Total expenses</b>			<b>60000</b>

C/ Number of days per year, when teleconferencing facility will be used 250  
a. Number of days per year used by the course for re-training of teachers 75  
b. Number of days per year, the teleconferencing facility can be used for other purposes (meeting, discussions, etc.) 175

Version 1. Period required to restore investments made in establishment of teleconferencing centers on the example of using it for 600 hours of training, seminars, etc.

Number of people to participate in one-time training from all aimags	300
Travel, accommodation and other expenses for participation of 21 persons from each aimag for traditional 5 days (40 hours) training in Ulaanbaatar (thousand MNT)	1674.9
Travel, accommodation and other expenses necessary for participation of 300 persons from aimags in Ulaanbaatar for 5 days training (thousand MNT)	23927.7
Expenses necessary to conduct 5-days (40 hours) training for 300 persons using teleconferencing facility	3400.0
“Savings” of using teleconferencing facility for training of 300 persons for 40	20527.7

hours	
“Savings” of using teleconferencing facility for conducting 15 trainings of 40 hours	307915.7
Period to cover expenses (by years)	1.4

Conclusion: If teleconferencing centers will be established, not only the number of people to participate could be increased substantially but also the investments made to establish teleconferencing facilities will be restored within 1.4 years.

Version 2. If 1 hour of renting teleconferencing facility would be around 102.0 thousand MNT, then what would be percentage of depreciation of equipment at teleconferencing facilities?

Rent of 1 hour teleconferencing facility (thousand MNT)	102
Profit from renting 1 hour teleconferencing facility (thousand MNT)	17
Profit from renting 175 hours of teleconferencing facility (thousand MNT)	23800.0
Depreciation of equipment at teleconferencing facilities (thousand MNT)	76494.6
Percentage of coverage of equipment depreciation expenses from renting teleconferencing facilities (thousand MNT)	31.3%

Conclusion:

1. If the price of renting teleconferencing facility for 1 hour would be 102.0 thousand MNT (around 20% more than the fee paid for connection), then it is possible to generate 31.1% of equipment depreciation costs at teleconferencing facility.
2. If to cover all expenses equipment depreciation expenses from rent of teleconferencing facility, then 1 hour of rent should be 140.0 thousand MNT.

#### Hardware that should be installed at the Open Society Forum:

No	Hardware	Q-ty	Approx.price (in USD)	Note
1	Tandoberg 2500 distance learning system	1	13000	
2	Document camera	1	1000	
3	TV 32"	2	5000	
4	VHS recorder and player	1	300	
5	Computer set	2	5000	
6	LCD projector	1	2000	
7	Installation cost 15%	1	3000	
8	Transportation and insuranse 3%	1	900	
9	Unexcepected cost		2000	
	<b>Total</b>		<b>32200</b>	

#### 4.2.3 Services and quality analysis

In terms of service facilities and staff, hiring a dedicated staff is too costly and inefficient. The existing teleconferencing facilities are located in aimag's Education and Cultural Departments' teacher retraining rooms, some of which are located at the Governors'

offices and some of them located in separate buildings within 1 km from governors' offices. Those facilities have capacities to accommodate 25-50 participants.

In case of organizing videoconferencing event with more than 6 aimags at once, it is recommended to nominate 4 aimags for interaction and providing feedbacks and other aimags participate as observers, who could provide their feedback in writing or later on.

One of the main risks, which may cause to connection fault, is electricity in aimags. Therefore, it is recommendable to have reserve energy source in each aimag.

The other factor is land line. Due to introducing digital lines and digital switches the most of the aimags 128 Kbps speed has reasonable quality of service. Only few aimags (such as Uvs aimag) connected via several different media might have view with a small latency.

Saving connectivity expenses, preparation for the teleconferencing and for clarification purposes the presentations or topics could be pre-send and teleconferencing can be recorded on video tape or archived digitally on computer.

Contracting Telecommunication and Information Technology School of Mongolian University of Science and Technology will facilitate good and compatible system for teleconferencing.

#### 4.2.4 Management Models of the teleconferencing centers

The research team has studied several versions for managing teleconferencing facility and did SWOT analysis in order to determine the best solutions in terms of cost, access, service and utilization.

The types of Management model are commercial, government, civil society and mixed.

The commercial model will be managed by a business entity at central teleconferencing and representative in aimag center. The government model is when the management of the teleconferencing will be done by local authorities – local governor's office agencies, etc. The civil society model – the management should be a local NGO or NGO's association. The partnership model – management of the centers will be partners of stakeholders – businesses, local governor's and/or civil society representatives.

#### SWOT analysis

##### Commercial

<b>Strengths</b> <ul style="list-style-type: none"> <li>• Sustainable, cost recovery oriented</li> <li>• Innovative</li> <li>• Less bureaucratic</li> </ul>	<b>Weaknesses</b> <ul style="list-style-type: none"> <li>• High- risk</li> <li>• More profit-oriented, less community development</li> <li>•</li> </ul>
<b>Opportunities</b> <ul style="list-style-type: none"> <li>• Profit making</li> <li>• Possibility to grow</li> <li>•</li> </ul>	<b>Threats</b> <ul style="list-style-type: none"> <li>• High cost</li> <li>• All expense are born by business</li> <li>•</li> </ul>

##### Government

<b>Strengths</b> <ul style="list-style-type: none"> <li>• There are many potential users</li> <li>• Centralized management</li> <li>• Coverage of expenses for governmental/state organization from budget</li> <li>• There is a staff in Local governor's offices, who can take care of project</li> <li>•</li> </ul>	<b>Weaknesses</b> <ul style="list-style-type: none"> <li>• Bureaucracy</li> <li>• Limited access to public and businesses</li> <li>• If there is no leadership involvement, the initiative will die</li> <li>•</li> </ul>
<b>Opportunities</b> <ul style="list-style-type: none"> <li>• Reduced running cost related to maintenance, premises and other logistics</li> <li>•</li> </ul>	<b>Threats</b> <ul style="list-style-type: none"> <li>• Little initiatives</li> <li>• Political influence</li> <li>•</li> </ul>

## Civil society

<b>Strengths</b> <ul style="list-style-type: none"> <li>• Involvement of different stakeholders in process</li> <li>• Open Access to public</li> <li>• Initiativeness</li> <li>•</li> </ul>	<b>Weaknesses</b> <ul style="list-style-type: none"> <li>• Indefinite future</li> <li>• Limited resources</li> <li>• Resource constraint in human, capacity and others.</li> <li>•</li> </ul>
<b>Opportunities</b> <ul style="list-style-type: none"> <li>• Partnership of different stakeholders</li> <li>• Broader access will bring more people</li> </ul>	<b>Threats</b> <ul style="list-style-type: none"> <li>• Not gaining profit</li> <li>• Without sustainable future model, will die out after project finished</li> <li>•</li> </ul>

## Partnership

<b>Strengths</b> <ul style="list-style-type: none"> <li>• Cooperation and coordination among different stakeholders</li> <li>• Ability to mobilize all resources</li> <li>• Possibility to share human, management, organizational, financial and logistics resources</li> </ul>	<b>Weaknesses</b> <ul style="list-style-type: none"> <li>• Every stakeholder might rely to each other on certain matters</li> <li>• If no strong commitment from each stakeholders, in case of occurring any problems, then uncertainty and misunderstanding will appear</li> <li>• Could not be a separate legal entity, who will be responsible for that</li> </ul>
<b>Opportunities</b> <ul style="list-style-type: none"> <li>• Further expanding users, framework of activities and utilization</li> <li>• For bringing in resources from different stakeholders and channels.</li> <li>• Opportunities for growth and expansion</li> </ul>	<b>Threats</b> <ul style="list-style-type: none"> <li>• Without proper coordination, there might be misunderstanding between stakeholders with different views</li> <li>• Without legal status, the bigger initiative – more problems.</li> </ul>

The team is considered that partnership model is the most appropriate. However, according to the above mentioned SWOT analysis it also has several drawbacks and threats. Potential partners must be aimags ECD, Ministry of Education, Culture and Science, Cabinet secretariat of the Government, local NGOs and business entities. Partnering with those organizations you can benefit to share their facilities and staff. In order to work more closely the partnering institutions should sign an MoU and contract for partnership. Also the leading organization's role, responsibility and rights should be determined clearly in the partnership contract. After testing partnership the partnership could be extended with partners.

## **5. Findings:**

1. There are many initiatives by different stakeholders in different areas such as distance learning at MOECS, telemedicine at MOHSW<sup>xix</sup>, treasury fund project at Ministry of Finance and Economy and other private initiatives, such as Banks and telecommunications.
2. There is no coordination or central regulation of all these initiatives – they are all separate.
3. There is no compatibility technically and technologically, if interrelated in local level in most cases decisions are pending from headquarters.
4. The cost of telecommunications is high for teleconferencing used for several hours, especially if costs are born from rural areas.
5. There are limited human resource capacities in aimag levels
6. All decision for any initiatives are made in Ulaanbaatar
7. There are expression of interests from local level organizations and representatives. However, since no decision is made at local level, there is no commitment
8. There is no experience and knowledge of using teleconferencing, even comprehending the what is it
9. There is no best practice in and technical and technological ways, since most of these initiatives are still pilot projects and in test period.
10. Without preliminary cost calculation, it was difficult to get commitment for using this facility
11. Organizationally, there was great interest from local governor's offices or citizens representatives' khural of aimags, to manage this facility. However, no financial commitments are made, since budget is usually limited.
12. Business entities were reluctant to invest in this facility, due to high-risk, high on-going expenses and high start-up costs.
13. If there was interest from civil society, there were no finances to built – only rely to donor community.
14. There is limited policy regulation in legal environment.
15. Regulatory framework is still government decision dependent, which affects its independence and decision making.
16. Pilot tests proved to be successful, but limited with finance, organizational matter for sustainability, coordination and cooperation of different stakeholders are necessary.
17. All tested/piloted projects are restricted to its limited objective (telemedicine, distance learning or others)

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<sup>xix</sup> MOHSW – Ministry of Health and Social Welfare



## **6. Recommendations and conclusion**

The team met and interviewed over 40 people from 30 organizations and entities. The site visits to Selenge and Khovd aimags were carried out, during which visit to customs department, telecommunication offices and interviews with different stakeholders were held. The meeting/discussions made clear that there is an interest and opportunities of using teleconferencing facilities in rural areas. However, as it was identified during visits and meeting/discussions in those aimags, it was clear, that most of the decision making is done in Ulaanbaatar at headquarters or at governmental offices, ministries agencies, etc. Therefore, the team concentrated their activities on meetings, discussion and interviews with different stakeholders in Ulaanbaatar.

### **Recommendation:**

1. There are many initiatives, but since these are not coordinated, there is an opportunity for some entity to play a role of coordinator of these kinds of initiatives. Moreover, this entity could coordinate among headquarters-organizations in Ulaanbaatar.
2. If there are other initiatives to implement in future, there is a need for utilizing already tested/piloted projects and technologies. It's important to consider technical and technological compatibility
3. Since there is existing infrastructure which is not fully utilized, there is a need for negotiating with service providers terms, conditions and costs of using this technology (benefits, reduced costs for many/long hours, etc )
4. There is a need for capacity building of people to work at aimag level teleconferencing facility
5. There is a need to organize show cases of the demonstrating teleconferencing facilities, bringing in different stakeholders from both sides
6. There is an opportunity to organize national summit on teleconferencing best practices and cost benefit analysis to utilize this facility
7. In order to save costs, local governor's offices could be good partners providing premises and bearing some running costs, such as human resources, heating, electricity, etc.

### **Conclusion:**

1. The team looked at different models and identified Partnership model as the best model for teleconferencing, because it will enable to share costs and facilities and coordinate activities between different stakeholders.
2. In technological sense, the team is proposing to use ISDN network, because the technology is more proper and cheaper in current situation. Also, using IP<sup>xx</sup> protocol will be considered in near future
3. The cost-benefit analysis shows that teleconferencing facility is cheaper if more than 4 persons from each aimag are participating in training/seminar/workshop/discussion/etc. However, in case of fewer participants, it depends on number of hours.
4. Main user of such technology - Ministry of Education has already started distance education facility for retraining teachers for 600 hours annually. This facility is

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<sup>xx</sup> IP – Internet Protocol

used 75 days only and remaining 175 days are idle, which could be used by other stakeholders. Thus Open Society Forum should be one of teleconferencing sites. The Open Society Forum should negotiate with MOECS in terms of connecting to the Distance Education Network as one of site.

5. If there will be more than 6 aimag-sites participating at once at teleconferencing event, in order to make event efficient and productive, it's proposed to select 4 aimag-sites as discussion sites and remaining aimag sites will be participating in event as observers. The observers could submit their ideas, feedback and comments later on by email, mail or through telephone.
6. If there is a need of bringing in more participants simultaneously, it is possible to setup parallel to MOECS facility, for example in clinics, hospitals, mayor's office, etc.

## **7. ANNEX 1. List of persons met and highlights of the meetings**

1. Mr. Munkhbat Ch., Director, Public Administration Reform Project
  - Distance education project – at the Academy of Management – for retraining public servants. The project has paid for Internet connection and running cost of distance education center at the Academy of Management.
  - Distance education project- MOECS and Telecommunication and IT School of the MUST. The project is aiming to establish network to provide teacher retraining from the distance.
2. Mr. Sukhbat B., Director of ICTTC, Telecommunication and Information Technology School of the MUST
  - Hourly rate of teleconferencing facilities is 83,500 MNT according to special negotiation with Mongolia Telecom for 600 hours batch of teacher retraining
  - Remote centers have rooms for 30 participants
  - Screen can be divided into 16 pieces
  - A channel capacity is 64kps. Thus for teleconferencing needed 2 channels. Per minute per channel is 265 and for pair channels 530
  - Could be organized by region
  - Mixing with other types of training such as distributing CD, printed materials, videos prior to the tele-training.
  - It is real-time system
  - There are 13 aimags with distance education facility
3. Ms. Densmaa, regional coordinator of MFOS, Arhangai, via Teleconferencing Officer in charge of aimag telecommunication center of Arhangai
  - It's expensive to connect from Aimag to other locations, because costs of connections are of inter-aimag rate of telecommunications connection. Mostly access [www.mongoleducation.mn](http://www.mongoleducation.mn) website using TV as LCD. Only 30 people can use this facility.
  - Tested connection with Darkhan and Erdenet, which was twice cheaper than connecting to Ulaanbaatar.
  - There is a need of training on system usage.
  - 65,000 for transportation and 20,000 for DSA
4. Mr. Bat-Erdene J., General Director of ICT Policy Coordination Department of the Ministry of Infrastructure
  - There are 5 Internet centers established in aimags through MICOM, connection done through fixed and wireless solutions.
  - Needed a unified platform for transmission
  - Wanted to create unified IT centers in rural areas – by creating one location or technologically
  - To the center E1 and at the aimag centers WiFi
  - Local ISP in order to reduce connectivity cost
5. Mr. Buuveebaatar Sh., Head of the department, Cabinet Secretariat of the Government
  - Needed to integrate results of the projects such as Vajpai training center, Distance education center, Academy of Management
  - To bring public services to the citizens
  - Recently 2 resolutions had been approved:
    - Government resolution No 80. 4 channels from Railcom fiber optic line 12 channels had transferred to public use for the connection of 3 aimags inline with railway. (1700 km fiber optic lines)
    - Notes of the Government meeting. To connect all aimags, the Aimag Governors offices should be connected to aimag telecom offices.
  - Need to train for the Culture to use ICT

- Training is needed. Government resolution No 96 of 1999.- National Programme on Distance Education
  - Going to establish training labs at the aimag governors' offices
  - To follow standards (ISO 154889)
6. Mr. Baatarsaikhan, officer in charge of implementation of resolutions and orders, Center for Civil Registration and Information
- The center has 74 inspectors
  - Aimags governor's offices have 1 senior inspector and family registration officer under the legal departments.
  - 61 inspectors rights been extended from 2004
  - Ministry of Justice and Home Affairs organizes re-training once a year. Duration of the training is a week.
  - The center sends their staff to the aimags for inspection and training for 1-2 weeks.
  - Information security is important
7. Ms.Enkhjargal, methodologist, Education and Cultural Center, Uvs aimag
- Internet café 600MNT
  - 4 Internet cafes
  - Tele-distance education lessons were with a little delay.
  - Too many aimags was a bit difficult in terms of Q&A
  - It was difficult to show their practical works due to too many aimags.
  - Overall it is really fruitful
8. Mr. Zorigbaatar, Director of Railcom
- Since August 2002 they have started Internet services via fiber-optic lines
  - Connected to Russia and China
  - Transit traffic between Asia and Europe
  - Covers all settlements along railway.
  - Voice over IP
  - Local teleconferencing
9. Ms. Bayarmaa B., Director, International Project Management Department, MSC Holding
10. Mr. Bilguun B., Director Data and Voice Communication Division, MCS electronics.
- IP HUB of Mongolia
  - Video over IP
  - Trial videoconferencing
  - Satellite network by November, 2004
11. NIC
- The company is starting to re-organize all re-training process.
  - They can consider afterwards about this teleconferencing.
12. Mr. Battsengel, Director of the Distance Education and Short-term center, Academy of Management
13. Mr. Baigal, Head of the Computer lab, Academy of Management
- Lecturers' room, Library and training equipment center was renovated
  - Distance education center has launched with 2 computers and with supporting furniture
  - The Academy is planning to organize training centers at the aimag governor's offices of Darkhan-Uul, Dornod, Uvurhangai, Dornogobi, and Orkhon aimags.
  - The aimag training centers will have 5-8 computers with Internet access for officer for the on-job training
  - Web based training software was developed by Interactive Co. Ltd.
  - Human resource management and Public financial management lessons are going to be uploaded onto web
  - The tuition fee per credit hour is 23,000 MNT for Thursday classes (There is a class, which will have training only on Thursdays)
  - The tuition fee per credit hour for usual classes is 20,000 MNT.
  - 1 group consists of 30 students

- Short term courses – 2 weeks
  - Annual enrollment for short-term courses is 800-1300 students from rural area by state budget for retraining
  - Accommodation is 1200 MNT per day
  - Transportation expenses is covered by local governors
  - 1243 students 40 million MNT for short term courses
14. Mr. Ganhuyag Ch., Executive Director, XAC bank
  15. Mr. Soronzonbold L., Director, Branches activities, XAC bank
  16. Mr. Naranbaatar, officer, XAC bank
    - The bank has 33 branches, out of which 26 in rural areas – all aimags plus Harhorin, Hutul, Nalaiih, Baganuur.
    - Remote access server
    - E-mail connection for everyone
    - Downloading all database using dial-up
    - 1-2 training for staff (a week)
    - It would be better to use such expensive facilities not for the trainings but for conferences, interviews and accreditations
    - Current offline connection is satisfied their current need
  17. Mr. Ganbat, technical officer, Headquarter of the Border Patrols
    - Government action plan No 756 “to connect international border points”
    - MON 4 project USAID with total cost of 800,000\$ on communication for the border control system
    - Information incoming and outgoing citizens are not considered as a state security matter.
    - Possible to cooperate with customs department on communications.
    - For training and re-training, the staffs of border patrol are brought in to Ulaanbaatar. 40-50 people to attend one training.
    - High-security encryption of data.
    - There are 5 government organizations work at border point: customs, police, taxation, professional inspection officers and border patrol and it would good to cooperate and share common resources and facilities.
  18. Mr. Batbold T., Technical and Vocational Education Center, Shaamar soum, Selenge aimag.
  19. Mr. Baatarsaikhan, lecturer in livestock and bee farming
    - Computer classes 2 hours per week in one semester
    - Knowledge of the computer trainer is not enough
    - No any possibility and even test to connect Internet and e-mail
    - There is a need to use teleconferencing for retraining of teachers, however, impossible to connect
  20. Mr. Dagvadorj O., Director of aimag Telecom, Sukhbaatar soum, Selenge aimag
    - Railway does not want to interconnect as PSTN
    - Aimag governor's office has 56K connection
    - School No 1 and 4 had Internet connection via MFOS project
    - Connection charge per minute was 40 MNT and it has been reduced since June 2003 to 20MNT plus VAT.
    - No ADSL connection
    - No any other ISP subscribers except MICOM
    - Telecom engineers are serving on behalf of MICOM including installment
    - Only 10 organizations are connected to Internet: 4 banks, 2 schools, Customs office, Library, Flavor factory and Chamber of Commerce branch.
    - Phone conversation load is very low
    - Functioning 4 operators in aimag: Telecom, Mobicom, Skytel and Railcom
    - Governor's office has a debt to the Telecom

- Haan bank, Trade and Development Bank, Customs office and Altanbulag are connected via Satellite.
  - Telecom office located in 500 meters from the hospital and aimag governor's office.
  - ECD located in 2 kms
  - Mobicom has tested telemedicine possibilities.
  - Migration to Darkhan is becoming too often
  - Most of biggest factories are closed. Only furniture factory is rented for Chinese chopstick making factory
  - Total population of the aimag is 120,000
  - 60% lives in Zuunharaa, Hutul, Baruunharaa
  - Only 2 soums has losses in telecom: Orkhon and Javhlant
  - Banks are paying 300,000 MNT per months for the connection
21. Munkhbayar, Officer in charge of Education, Selenge aimag governor's office
22. Sanjjav J. , Head of Governor's office, Selenge aimag
- The aimag has 17 soums
  - 10,000 Mobicom users
  - Governor's office has over 30 staff
  - Annual DSA for staff is ranged 14-15 Million MNT. Of which 80% spent to UB and 20% to rural soums.
  - Telecommunication budget 17-19 million
  - Governor's office has 29 computers and 1 subscription to Internet
  - Russian language knowledge is pretty high. Thus searches some Russian webs
  - Connectivity speed is very slow
  - Aimag Administrations are called to UB quite often
  - Since there will be a connection to government internal phone network, around 40% of the budget will be saved
  - The governor's office has a good equipped room for organizing seminars and workshop with capacity for more than 200 people. The room could be used for teleconferencing too.
23. Mr. Davaasambu, Deputy Director of Customs office of the Selenge aimag
- Customs office uses GAMAS system for information processing
  - Another office located in Altanbulag soum, which is about 25 kms.
  - Every seminars organized from the head quarter of the General Customs office
  - Every inspector has phone. Thus they can have possibility to call
  - At current stage there is no need for teleconferencing for their work
  - Seminar and workshops once per year
  - Reporting of activities once in a quarter
  - Training is paid by the General Customs office
  - If teleconferencing will be established they may use it to discuss some certain issues
  - Some of the staff are studying in Customs Academy and Economic college
24. Mr. Ganbaatar, senior inspector, Altanbulag Customs office, Selenge aimag
- Altanbulag customs recently got a new office with well equipped and extended possibility for custom checks
  - The customs office has connected to the General Customs office via Satellite connection
  - GAMAS system is working properly for exchanging information
  - No urgent need to organize teleconferencing
25. Mr. Temuujin, colonel, head of the Border check point, Altanbulag soum, Selenge aimag
- They are transferring information to the head quarter
  - Sometimes they transfer data via diskettes to Sukhbaatar soum
  - There is a big demand to share information with headquarters and other check points.
  - The check point uses Customs network

26. Mr. Dashdendev, Director, Education and Cultural Department, Selenge aimag
  - Monthly communication budget is only 80,000 MNT
  - There are 60 teachers for participating in the centralized retraining
  - Most retraining activities hold by regions
  - Coverage of the teachers for retraining is limited. There is a big demand for retraining
  - The budget for DSA is 700,000 MNT
  - ECD has 4 computers without Internet access
  - Fuel budget is 1,500,000 MNT
  - Staff is not using e-mail
  - The aimag has sufficient number of Informatics teachers
  - Computer supply is limited
  - Four schools have not got any computers: Altanbulag, Baruunburen, Orkhontuul, Huder.
  - There is a need to write specifications of supplied computers
27. Ms. Giihtuya, Informatics teacher, School No 1., Sukhbaatar soum, Selenge aimag
  - Graduated from Mongolian National University in 1999
  - Lack of additional materials
  - Did not participated in any training
  - Telecommunications cost of Internet connection - 20 MNT+ VAT per minute
  - Staff at the governor's office helps for maintaining computers
28. Mr. Purevdorj, Director, Technical and Vocational Education Center
  - The center has 450 students in 9 different professions
  - The center previously was a college in forestry
  - Informatics subject have been teaching
  - The center has 6 general education and 9 professional teachers
  - Teleconferencing could be a good tool for retraining of teachers
29. Railcom Internet Café, Selenge aimag
  - There were some bug connecting to Magicnet website
  - Mainly used by children to play computer games
  - Speed of connection is medium for downloading files
30. Mr., Director of Telecom office, Hovd aimag
  - Internet café of Telecom has 4 computers using VSAT connection 26,400.
  - Most income is not from Internet, it is generated from fax and telex transmissions and use of computers.
  - It charges 400MNT per 1 hour of Internet connection (price reduced from April 1, 2004). There are around 60 people coming to Internet café on daily basis.
  - Generates income around 300,000MNT per month.
  - There are 2,000 users of telecom in aimag with capacity of 15,000 (under-utilized facility)
  - Over 140 small business entities, with 23-24 big organizations (state and non-state) and private companies.
  - To call to Ulaanbaatar is 251MNT per minute.
  - Currently implementing distance education and distance diagnosis projects with Mongolian Telecommunications company.
  - Enough technical capacity.
  - The staff of telecommunication company conduct radio-meeting once in a quarter
  - The big problem of unstable electricity supply - they use Russian power stations.
31. Mr. Kushai T., Director, ECD, Bayan-Ulgii
  - The aimag needed to establish teleconferencing center.
  - They already have prepared room for the center.
32. Mr. Shirendiv, Head of Citizens representatives' hural (CRH), Khovd aimag

- Budget for travel for aimags is not distributed evenly and does not include distances to and from aimags.
  - There are possibilities of using teleconferencing facilities, once established
  - There are 6 people in CRH of Khovd aimag with budget of 16 mln MNT per year for travel, salaries, premises, activities and etc. (for everything)
  - There are 30 citizens representatives in Khural
  - All government properties over 100,000MNT resolved at CRH.
  - The teleconferencing facility could be placed at the premises of current information center established by Parliament of Mongolia and "Strengthening democratic Parliament" project for information to citizens and communications with members of Parliament and with central government.
33. Mr. Damba, secretary of Citizens representatives' Hural, Khovd aimag
- If used, there are demands in local level, since not every organization can afford to send their people to Ulaanbaatar for training and other activities.
  - Important to include the cost of teleconferencing in the budget of aimag, especially based on the per capita data
34. Mr. Naranbaatar, Director of WestCom, Khovd aimag
- It's 100% private company.
  - They have Internet connection of 256kbps through MCS.COM
  - Over 20 organizations, companies and individuals connected to their network through radio-modem connections, such as Pedagogic al University, Governor's office of Khovd aimag, school No. 4, Anod bank, etc.
  - They got support from MFOS (Soros Foundation) for one-year Internet connection fee of 18,000USD, which will finish in June 2004.
  - They plan to introduce Voice over IP. Telecom office charges 251MNT per minute. WestCom is planning to provide services for a bit cheaper rate
  - They have mail server [www.westcom.mn](http://www.westcom.mn), which has emails of 80 people
35. Mr. ...., Mobicom Co., Khovd aimag
- There are over 2,000 users of mobile phones
  - Planning to expand more to include around 4,000 users
  - Mobicom is planning to provide Internet service provision for all aimags, including Khovd aimag
36. 5 Librarians at Public Library, Khovd aimag
- They had Internet center, established through UNDP project – 4 computers. This was transferred to center for prospective students to study overseas, project of MFOS (Soros Foundation).
  - They have 4 computers – accountant, director of library and in cataloguing department 2 computers. No local network and no connection to Internet
  - They plan to have Internet jointly with Computer training center, located at public library and share costs
37. Anod bank
- Use WestCom for their Internet service and exchange of data between Ulaanbaatar headquarter's office and Khovd branch
  - Satisfied with services received from WestCom.
  - Pay monthly Internet connection fees without problem
38. "Erdem" University
- Internet café operates in their school – connection from WestCom.
  - It charges 500MNT for 1 hour Internet connection
  - Has 25-30 people per day
39. Selenge, GDLN – Global Development Learning Network of World Bank
40. Robert Hagan, WHO
41. Narangerel, Magicnet Co. Ltd
- Abstracts from some calls:



Tsetsegsuren tel 320716 - training specialist in City Insurance Department: For our work, we can use teleconference communication to transfer information, regulation and other information from top management to field offices. Also, we can use once a month teleconferencing communication for our staff distance training depending on the cost.

Ganchimeg tel 457897 - marketing department of Agricultural Bank: We transfer information via telephone through local area network. The branch office directors gather once a month to headquarters office for a meeting.

Erdenebaatar tel 312493 - methodologist at Mongolian Tax Agency: We use internal telecommunication to transfer information within organization. If the price of teleconferencing will not differ much of current communication, we could use this facility.

## **Memo**

**To:** R. La Mont  
**From:** D. Suheemaa  
**cc:** N. Enhtuya  
**Date:** May 3, 2004  
**Re:** Hovd Aimag

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### **Court Administration**

Judge Alimaa, acting Chief Judge of the Hovd Aimag Court, and Judge Oyunhand, Chief Judge of the Inter-Soum Court, both pointed out that training for court administrators for providing proper management and administration of court operations is essential. The availability of law texts, recent amendments to laws and of Supreme Court interpretations is still a major problem. Given that the court does not have Internet connection yet and the power problem is not straightened out, they said that a yearly or quarterly compilation of Supreme Court interpretations and decisions would be very useful (of course until the Supreme Court website is set up and the UIS is operational). They agreed that ex parte meetings give rise to doubts and grounds for suspicion, and emphasized that appellate court judges do not need to meet with the parties at all, as for the first instance courts they think that the assistants could easily handle it without involving judges. Another area of concern was the performance evaluation of judges. Judge Alimaa thinks that the two phase evaluation (at the local and national levels) of the new procedures gives room for unfair nomination, as the three or four judges of a given court could simply agree to be nominated in turns. Furthermore, there is no established reward; it changes form year to year, which in some way diminishes the value and the importance of the reward. As a positive side she noted that as most courts now use "rotation" principle for case assignment that balances the caseload the evaluation criteria will hopefully shift from quantitative to qualitative indicators. Finally, they requested manuals on computer and "Judge 2003" software usage.

### **Arrest&Detention Procedures**

The Hovd Aimag Inter-Soum Court has a judge specifically assigned to issue warrants, judge Byambasuren. He was absent due to the GTZ trainings that started last week therefore judge Batzorig was replacing him. According to Batzorig the main problem in implementing A&D Procedures were: 1) that the term of 7 days specified in Article 69.5 of the Criminal Procedure Code "The investigator shall deliver a decree with grounds on extension of period for investigation with confinement to a procurator prior to 7 days before expiration of the period and the procurator shall deliver it to court" was never followed; 2) that there is a tendency to use the sobering houses which are under the jurisdiction of the police as facilities to arrest and detain people without any warrants. The police explain this by urgent circumstance/situation. Therefore the nationwide decrease of arrests and detention almost by 50% is probably not an accurate indicator; 3) that if a judge that hears criminal cases issues a warrant to arrest/detain a person and approves the permission to extend its term and then hears the case (due to the small number of judges available and that most criminal cases are heard by a panel) is somewhat a factor for a biased decision by the judge. Therefore judges in charge of issuing warrants should be judges that hear civil cases; 4) that though the members of the family and/or the advocate of the detainee are seldom not notified in due time, there should be no countryside "specific circumstances" that can be used as an excuse not to notify and that this should be made consistent by the joint regulations. Judge Batzorig was not concerned with the fact that advocates rarely come to court in connection with arrest and

detention issues. Further, judge Batzorig said that the records form was updated in conformity with the Capital City Court recommendations on records keeping, and he thought it was sufficient.

The Inter-Soum Court Chief Judge Oyunhand, on contrary, thinks it is very important that advocates come to court together with the prosecutor to prove that there are no grounds to arrest/detain the suspect/accused. If both sides will have the opportunity to present evidence there will be no need for judges to spend a lot of time on reviewing the case files, and this will expedite the process. In view of the fact that the arrest/detention is to some extent becoming a means to make people confess she said she always reminds the advocates and suspects that they have the right to appeal the judge's decision (Article 114 of the Criminal Procedure Code "Complaint against a decision of court on application of confinement under guard as a measure of restraint or to revoke or change the measure may be made to the Chief Judge of respective court or in his/her absence to the judge appointed to be in charge.")). Because of the small number of judges and that they are always busy sitting on panels judges do not spend enough time to review the case files, which causes issuing of warrants without thorough examination of all circumstances, furthermore violation of human rights. Judge Oyunhand supported the idea of having standard forms and unified records for the arrest and detention activities as a tool for monitoring. *(She is also writing a paper on adversarial process in civil cases which we will use in our symposium on the adversarial process.)*

Regrettably, judge Batzorig was not really concerned with the fact that the court does not issue "warrants" as legal documents/acts. Judge Oyunhand, though she thought that the arrest and detention as restrictive measures affect one of the most essential and important human rights, she was not disturbed with the fact that the judge just "confirms" the arrest/detention by signing the prosecutor's order.

The Aimag prosecutor and prosecutor Bayarmagnai, the prosecutor in charge of arrest and detention, both did not see problems in implementing the arrest and detention procedures set forth by the Criminal Procedure Code, except for the accessibility of detention centers. Though the Bulgan Soum (350 km from the Aimag center) has a police unit, a prosecutor's office and a court, the inquiry officer/investigator imposes administrative sanction in order to detain the suspect/accused at the police unit and then takes the suspect/accused to the Aimag detention center. Police loses time in bringing in suspects/accused from distant Soums, for example the Munhhairhan Soum that is approximately 250 km away from the Aimag center, to get an arrest/detention warrant. The Aimag prosecutor said that the video conferencing equipment would be of great consequence in this context, and that it is possible to make procedural adjustments to conform to the provisions of the law. As for the issue of holding a small "hearing" with the advocate (or the suspect/accused) present, he said, if the international treaties/covenants require so, a relevant clause should be included in the joint procedures. Bayarmagnai was much more concerned about the conditions in the detention center: lack of adequate facilities, lack of medical personnel, malnutrition, etc.

The prosecutor's office does not keep separate records on arrest and detention activities.

**The Mongolia Judicial  
Reform Project**

# Memo

To: Robert La Mont, Chief of Party  
Heike Gramckow, Program Director  
From: Mary Fran Edwards, Legal Training Expert  
Date: 12/9/2004  
Re: 2003 Aimag Follow-Up Courses

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In summer 2003, the JRP ran three regional TOTs for potential trainers from the 21 aimags. With GCC encouragement and JRP course materials; there were three-day local courses in each aimag between August and the end of December 2003. The longer term goal of the 2003 TOTs is to prepare aimag faculty to teach for the NLC. These courses built on the foundation laid in the JRP's direct training in all the aimags in 2002. The 2003 topics were the same: criminal code, criminal procedure code, ethics, and advocacy. The JRP supplied course evaluation forms in our standard format. The JRP Program Coordinators summarized all the evaluations aimag from each aimag. In addition, JRP staff or trainers went to seven aimags to monitor the trainings for quality control purposes. Aimags where JRP staff and trainers did monitoring:

1. Bayan-Ulgii (Ariunbold)
2. Bayankhongor (Byambajav)
3. Bulgan (Zumberellkham)
4. Gobi-Altai (Oyunbat)
5. Gobisumber (Puntsag)
6. Tuv (Heike, Enkhbat)
7. Selenge (Bat-Erdene)

In **2002**, the average scores on an ascending five-point scale on the five points below were:

	Overall Course Score	Course Materials	Objectives Met	Able to Apply to Work	Expectations Met
<b>AVERAGE</b>	<b>4.62</b>	<b>4.79</b>	<b>4.57</b>	<b>4.28</b>	<b>4.61</b>

## *Overall Course Evaluation Scores*

In **2003**, the average scores on the same five points were not quite as good:

<b>AVERAGE</b>	<b>4.21</b>	<b>4.43</b>	<b>4.18</b>	<b>4.25</b>	<b>4.19</b>
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However, this was to be expected for three reasons. One is that in 2002, many audience members had never attended a CLE course before. They were "just happy to be here" and

had no point of comparison. Now the audiences are somewhat more discerning. In addition, the 2002 courses were taught by JRP trainers who had gone through a rigorous recruitment screening. Second, by design, the 2003 follow-up courses were all taught by local trainers selected for their potential teaching ability. They had attended JRP regional TOTs but did not have extensive teaching experience. Finally, the 2002 courses were basic. The 2003 courses were at a somewhat higher level, building on the prior year's training. They were therefore more complex to teach and appreciate. Considering these three variables, the average overall evaluations are quite good, although they are lower in every aimag than the 2002 courses. The average overall answer in 2002 to "Were your expectations met?" was 4.61. Never having attended CLE, the audience had low or no expectations. Now that they are more sophisticated and have some expectations, the average 2003 score was only 4.19, but still acceptable.

The most successful course on each point was in Bayan-Ulgii:

	Overall Course Score	Course Materials	Objectives Met	Able to Apply to Work	Expectations Met
<b>Bayan-Ulgii</b>	<b>4.59</b>	<b>4.78</b>	<b>4.56</b>	<b>4.56</b>	<b>4.50</b>

The least successful on each point was in Selenge:

<b>Selenge</b>	<b>3.90</b>	<b>3.92</b>	<b>3.80</b>	<b>3.85</b>	<b>3.60</b>
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The courses in Khentii and Orkhon had overall score of only 3.95 and 3.91, but scored 4 or above on the other overall course questions. In other words, they were less overall than the sum of their parts. Conversely, Selenge, although poorly received on each question, was greater than the sum of its parts despite being lowest scoring aimag. In Selenge and Khentii, on every single topic the questions "How did you like the trainer's methodology?" received less than 4; in Khentii the answer to that question was four or less on all but one topic. Probably these three aimags had the weakest trainers.

### *Specific Topics*

Each course had four topics:

- 1) Methodology for Classification of Crime and Criminal Liabilities
- 2) Professional Ethics of Lawyers
- 3) Problems and Ambiguities in Application of the Criminal Procedure Code on Mongolia and Ways to Solve Them
- 4) Adversarial Principles

There was a remarkable similarity in ratings and comments from topic to topic within a course. They were all within a normal range of the course overall score.

### *Course Materials*

Once again, the course materials were the best received part of the program, scoring overall 4.43. Audiences who rated the course low generally rated the materials low. The variation is interesting because the same course materials were used in all 21 aimags, yet the overall evaluation of them ranged from a low of 3.90 to a high of 4.78, a remarkable variation.

### ***Written Comments from Participants***

On the whole, the written comments were positive and constructive. Most of the evaluations had some recommendations to provide more training of trainers. Most also wanted longer courses and to have them more often. There were several requests for information on comparative law and for more use of audio visual aids in teaching. The problem solving and interactive discussions were very well received.

### ***Conclusion***

As expected, the courses were not as successful as those the prior year. However, as the first local courses with aimag trainers, they went well. The local audiences are eager for more training. The NLC is providing trainers on criminal law and advocacy for the 2004 regional TOTs; the JRP is supplying trainers on courtroom communication and providing more teacher training, particularly on use of audio visual aids. The JRP can also discreetly give special attention to the trainers from the three aimags with the lowest ratings. The aimag trainers will be better prepared to teach the 2004 local courses, which will continue to build on the foundation laid in 2002.

### Aimag Follow-Up Training Courses 2003

#### Overall Evaluation Summary

Aimag	Overall Course Score	Course Materials	Objectives Met	Able to Apply to Work	Expectations Met	Aimag Average
Arkhangai	4.42	4.71	4.35	4.33	4.45	<b>4.45</b>
Bayan-Khongor	4.28	4.46	4.35	4.35	4.46	<b>4.38</b>
Bayan-Ulgii	4.59	4.78	4.56	4.56	4.54	<b>4.61</b>
Bulgan	4.06	4.28	4.11	4.00	4.00	<b>4.09</b>
Darkhan-Uul	4.21	4.59	4.42	4.25	4.43	<b>4.38</b>
Dornod	4.43	4.39	4.28	4.30	4.21	<b>4.32</b>
Dornogobi	4.30	4.40	4.10	4.20	4.10	<b>4.22</b>
Dundgobi	4.05	4.50	4.17	4.17	4.17	<b>4.21</b>
Gobi-Altai	4.13	4.68	4.28	4.26	4.11	<b>4.29</b>
Gobisumber	4.12	4.78	4.00	4.12	4.06	<b>4.22</b>
Khentii	3.95	4.05	4.05	4.05	4.00	<b>4.02</b>
Khovd	4.21	4.18	4.20	4.18	4.06	<b>4.17</b>
Khuvsgul	4.13	4.60	4.40	4.40	4.21	<b>4.35</b>
Orkhon	3.91	4.04	4.00	4.00	4.04	<b>4.00</b>
Selenge	3.90	3.92	3.80	3.85	3.60	<b>3.81</b>
Sukhbaatar	4.05	4.47	4.41	4.26	4.21	<b>4.28</b>
Tuv	4.47	4.26	4.31	4.47	4.10	<b>4.32</b>
Umnugobi	4.33	4.74	4.25	4.25	4.25	<b>4.36</b>
Uvs	4.21	4.43	4.33	4.29	4.33	<b>4.32</b>
Uvurkhangi	4.20	4.29	4.18	4.48	4.05	<b>4.24</b>
Zavkhan	4.37	4.55	4.47	4.42	4.53	<b>4.47</b>
<b>Question</b>						
<b>AVERAGE</b>	<b>4.21</b>	<b>4.43</b>	<b>4.18</b>	<b>4.25</b>	<b>4.19</b>	

**Feedback on June 17 & 18, 2004**  
**Train the Trainer Seminar**  
**Ulaanbaatar, Mongolia**

**Assessment by Dr. Deborah Ballard-Reisch**

**Training seminar:**

I thought this training went very well. There were, as one would expect, minor technical and other glitches. For example, we lost power on the afternoon of the 18<sup>th</sup> for a period of time – which proved to be a good learning moment as we could discuss in a more “real” way what happens when the power goes out in the field and how to be prepared for this type of situation (handouts, transparencies if the problem is computer-based, etc.).

There was a problem with materials translation in that terms and concepts in materials were not translated consistently throughout the materials, thus for example, what was intended to be an application activity of material already learned was much more difficult than it needed to be as terms were not translated the same way from one section of the materials to the next. This is an issue that should be addressed with translators prior to materials translation.

The participants were very excited about the LSI – not frankly one of my favorite assessment tools in most situations. I can honestly say that it worked incredibly well with this group – and the application of this instrument and its implications for learners trainers would face in the classroom worked very well. I'm not sure I've ever seen a group respond to this material so well!

Toward the end, I thought the schedule was a bit rushed as faculty left for training programs in the regions. The opportunity to work one-on-one with faculty before they teach new content would help them feel more secure and have a positive impact on the quality of content. I know some of this is already done, but would recommend more.

Participants were actively involved and very insightful.

I think it would be advantageous to have someone skilled in the nuts and bolts of presentations and visual aids spend more one-on-one time with trainers to facilitate their use of powerpoint. Those who know the program and how to “create” presentations are often not skilled in the communication aspects of presentations including font sizes, the use of color, animation, content, format, etc., so while I believe trainees got a good “how-to” introduction and can now create their own presentations, the quality of those presentations varied greatly and most participants would have benefited from more hands-on coaching regarding their presentations. This is important whether the powerpoint is used in presentation format, as transparencies, or as outlines.

**Follow-up with Communication Skills faculty:**

It was extremely valuable (and personally rewarding) for me to work with the faculty who will be teaching the communications course. Following their receipt of the training on this content in November, NCSC staff had conducted two perception surveys concerning communication in the court with judges, attorneys, and the public. Not only was this excellent information on which to build, I was also very pleased with how these faculty were able to take the original material and make it their own. The follow-up coaching I was able to



do with them was very valuable and I believe will make their training experience even better. I would recommend more follow-up contact with content experts in all areas as Mongolian faculty work to make these courses their own.

**Issues:**

I commend the staff of the center on their flexibility and commitment. Losing a day to prepare for the seminar (due to bad weather in Mongolia and planes being grounded in Seoul) put a rush on our schedule. The staff went out of their way to adapt and get everything ready in a timely manner.

In addition, I very much appreciate the opportunity to meet and work with translators prior to training sessions. It helps use get accustomed to how one another communicates, clarify expectations, and strategize how we will work together.

I had significant concerns about the translator used for this training session. As noted above, in some areas she was not careful with translation (her conclusion) and therefore, training was more difficult than it needed to be. Similarly, on various occasions, first while I was working with the communication skills faculty, then a few times during the training, she would simply stop translating. It is crucial that translators work with faculty. Without them, we have no voice. If they don't understand what we are saying, or need a break, it is very important that they communicate with us. In each case, we "fell into" this situation and I was stuck trying to figure out what was going on – even though we had tried to strategize about these potential dynamics ahead of time.

**Conclusion:**

Overall, this was an excellent experience for me and I believe for the participants. I am very impressed with the support the NCSC staff has given to judges and the strength of the faculty and programs that they have developed. I believe that this has been a very valuable collaboration that has strongly and positively impacted the judiciary in Mongolia. Staff are to be commended!

**Incidentals:**

Transportation and accommodations in Ulaanbaatar were fine this time. I had traveler's insurance and the transit hotel in Seoul was GREAT! I strongly encourage travel through Seoul rather than Beijing (given my experiences last time).

**MONGOLIA JUDICIAL REFORM PROJECT  
REPORT OF JOHN H. MORRISON  
TEACHING OF DISPUTE RESOLUTION  
ULAN BATOR – SEPTEMBER 2004**

In accordance with my Consultant Services Agreement dated March 12, 2004, with National Center for State Courts and with the Scope of Work document dated 2 February 2004, it was my pleasure and privilege to teach dispute resolution to judges and advocates in Ulan Bator for the Mongolia Judicial Reform Project ("MJRP"). I arrived in Ulan Bator in the wee hours of August 27 and departed in blowing snow on September 16. Prior to teaching, and interspersed with staff meetings and further preparation, I enjoyed week end excursions to Lake Huvsgul in the northwest and to the South Gobi Desert, all of which was very helpful in understanding Mongolia prior to my teaching.

The Mongolia Judicial Reform Project clearly is doing very good work and has much to be proud of. My impression of its leadership, under Robert LaMont, is excellent. The fact that the Project is being extended for four years, as I learned just before leaving Ulan Bator, attests to its success. I am grateful to Mary Frances Edwards, the Project's training expert, for her suggestion that I undertake this teaching and for her guidance and hospitality throughout my three weeks in Mongolia. I had the pleasure to meet Dr. Heike Gramckow, NCSC's deputy director of international programs, during my final days in Mongolia. Additionally, I wish to thank Robert's and Mary Fran's very competent staff for their assistance throughout: Tsogt who is a superb translator and interpreter – we were, I think it fair to say, a good team; Otgonbayar as program coordinator; Byambasuren as occasional interpreter for local meetings; Batgerel in the training office and our assistant in setting up teaching rooms; and drivers Batsorig and Altangerel.

My teaching focus was arbitration and mediation, with comparisons to litigation. In July and August I provided five course outlines which Tsogt translated, along with several teaching exercises. Tsogt also translated the IBA Rules on the Taking of Evidence in International Commercial Arbitration. Additionally I used and provided copies of a Dispute Resolution chart and a directory of web sites of arbitral institutions worldwide. Copies of these course materials in Mongolian were given to all students. The IBA Rules were given to all judges, some advocates who wanted them, the Association of Mongolian Advocates president and the Mongolian National Arbitration Court chairman. There should be some lasting benefit to these materials being distributed as they were.

There was clear interest in the subject matter of my teaching throughout. The student judges and advocates seemed to absorb the lessons and they asked meaningful questions. They enjoyed the arbitration pre-hearing exercise and the mock mediation which was done in three classes. For all the students, this was their first exposure to mediation which, in my opinion, may be more useful in the near future in Mongolia than arbitration, at least in respect of domestic (versus international) disputes.

My schedule in Ulan Bator:

August 27	Met with MJRP staff, including Mary Frances Edwards and Robert La Mont, program coordinator Otgonbayar and translator Tsogt.
September 2	Met with B. Purevnyam, president of Association of Mongolian Advocates to discuss course materials and class presentations and to inform him, at his request, in some detail about international commercial arbitration.
September 8	Taught full-day course on dispute resolution at Association of Mongolian Advocates' office for 27 Association "bar leaders" from around the country.
September 9	Taught full-day course on arbitration and mediation for 29 current and prospective arbitrators, many connected with the Mongolian National Arbitration Court of the Mongolian National Chamber of Commerce and Industry.
September 10	Met with MJRP staff re next week's teaching plans; Spoke about arbitration in Mongolia as featured speaker at luncheon meeting of Rotary Club of Bayan Zurkh 100 in Ulan Bator; Met with chairman of the Mongolian National Arbitration Court, S. Demberel, his senior legal officer, D. Maralgoo.
September 13	Taught half-day course on arbitration and mediation for 25 advocates of varying levels of experience; Met with B. Purevnyam, president of Association of Mongolia Advocates, in the afternoon, at his request, to discuss the potential role of the Association in national arbitration under the new Rules of Arbitration.
September 14	Met with secretary-general of the Mongolian National Arbitration Court, Altantsetseg D.; Met with B. Enkhdalai, attorney in charge of Expert Consulting Co., Ltd.; Met with Jeff Goodson, Senior USAID Program Manager at U. S. Embassy, at his request to discuss MJRP and my teaching.
September 15	Taught full-day course on arbitration, mediation and litigation comparisons for 24 judges at National Legal Centre; Conferred with Stefan Georg Hoffmann, a German judge who was teaching arbitration to young advocates and potential arbitrators at National Legal Centre, and combined our classes at end of the day for discussion of Mongolian courts' role in international arbitration.

During the course of my work in Ulan Bator, I met with the British Ambassador, Richard Austen, and the U. S. Ambassador, Pamela Slutz, for brief discussions of my work for NCSC with MJRP

Prior to my preparation of course materials in the Summer, the MJRP staff provided me a translation into English of the 2003 Mongolian Law on Arbitration and several articles concerning dispute resolution in Russia and China as relevant to Mongolia today. While doing further preparation on the scene in Ulan Bator, I came across a new book entitled *Legal System of Mongolia* by S. Narangerel (2004) which proved helpful in understanding the interaction of courts and arbitration and court procedures including evidence practices. I also obtained from the Mongolian National Arbitration Court some additional materials regarding arbitration in Mongolia plus copies of the new Arbitration Rules and Mediation Rule (which accompany the 2003 Law). My one suggestion to the staff would be that it would have been helpful for me to have these locally existing materials before completing my course materials. I did adjust my teaching accordingly. All in all, my experiences and work in Mongolia were immensely rewarding, and I am grateful to NCSC for the opportunity.

Respectfully submitted,

John H. Morrison

October 6, 2004

**Agenda:  
Ethics Program  
July 1 – 2, 2004**

***I. Introduction: Legal Ethics and the Power of the Few***

Creating an Ethical Culture in Society

- Ethical Concepts

**A. Discussion**

- Ethical Systems

Exercise and Discussion

- Three Hypotheticals; Voting, Discussion

**B. Fundamental Values**

Exercise and Discussion:

What is “The Prime Directive” for Judges? For Prosecutors? For all Lawyers?

***II. Legal Ethics Decision-making***

**A. The Process**

**B. Rationalizations and Misconceptions**

- Three Hypotheticals; Voting, Discussion

***III. Ethics Chess: Being Prepared***

**A. Key Moves**

- Three Hypotheticals; Voting, Discussion

**B. The Twelve Natural Laws of Legal ethics**

- Three Hypotheticals; Voting, Discussion

***IV. The Professional Codes***

**A. What is a Professional Code?**

**B. How do we use it?**

- 7-10 Hypotheticals as time allows; Voting; Discussion

***V. Review and Summary***

***VI. Question and Answer Period***

**National Center for State Courts  
Mongolia Judicial Reform  
a USAID funded project**

**Ethics Course**  
July 1-2, 2004  
Ulaanbaatar

**Topic: Legal ethics**

Conducted by Jack Marshall, President of ProEthics Co., Ltd and Lawyer

**EVALUATION SUMMARY**

Participant information: (Total 17 evaluations filled)

\_\_5\_\_ Judge    \_\_6\_\_ Prosecutor    \_\_5\_\_ Advocate    \_\_1\_\_ Others  
\_\_5\_\_ Male    \_\_9\_\_ Female    \_\_3\_\_ Not answered

**General evaluation**

	1	2	3	4	5	No answer	Average
Overall, I thought the course was				6	10	1	4.62
The usefulness of the written materials during the course was			1	3	13		4.70
To what extent were the course objectives met?				6	11		4.64
To what extent will you able to apply what you learned to your work?				9	8		4.47
To what extent did the course meet your expectations?				6	11		4.64

**Subject 1: Legal Ethics and the Power of the Few**

	1	2	3	4	5	No answer	Average
Overall, I thought the course was				6	10	1	4.62
The usefulness of the written materials during the course was				6	11		4.64
To what extent were the course objectives met?				6	11		4.64
To what extent will you able to apply what you learned to your work?				5	12		4.70
To what extent did the course meet your expectations?				6	11		4.64

**Subject 2: Legal Ethics Decision-making**

	1	2	3	4	5	No answer	Average
Overall, I thought the course was				5	11	1	4.68
The usefulness of the written materials during the course was				5	12		4.70
To what extent were the course objectives met?				4	13		4.76
To what extent will you able to apply what you learned to your work?				4	13		4.76
To what extent did the course meet your expectations?				5	12		4.70

**Subject 3: Ethics chess**

	1	2	3	4	5	No answer	Average
Overall, I thought the course was				5	12		4.70
The usefulness of the written materials during the ocourse was				5	12		4.70
To what extent were the course objectives met?				6	11		4.64
To what extent will you able to apply what you learned to your work?			1	5	11		4.58
To what extent did the course meet your expectations?			1	5	11		4.58

**Subject 4: The Professional Codes**

	1	2	3	4	5	No answer	Average
Overall, I thought the course was				4	12	1	4.75
The usefulness of the written materials during the ocourse was				4	13		4.76
To what extent were the course objectives met?				3	14		4.82
To what extent will you able to apply what you learned to your work?				3	14		4.82
To what extent did the course meet your expectations?				4	13		4.76

**A. What was the most effective part of the program? Why?**

\*Number of people who gave a certain response is in parenthesis

- Hypothetical situations (3)

Every part of the program was motivating and intriguing; especially each part was being verified by hypothetical (1)

Hypothetical situations; they helped participants and trainer to express their opinion freely and they involved wide range (1)

Resolving hypotheticals; the situations were rampant and could happen in life (1)

It was very efficient and fascinating to make own evaluation to the hypotheticals and to exchange views (1)

Impedimenta of legal ethics were very attention-grabbing because we face them in our life and they could happen in life and those (1)

- Professional code of conduct (4)

Professional code of conduct and hypothetical situations helped to resolve ethics problems if such problems arise in life and solved my doubts in certain extent (1)

Professional ethics lectures; complying with the professional code could be basis for success (1)

The Cowboy code of conduct (1)

- Legal ethics decision-making and the professional code of conduct would have excellent influence on legal profession and would create humanity and sympathy (1)

Ethical standards for US citizens (1)

- Legal ethics decision-making and ethics chess would help to resolve ethics problems which could happen in professional/business relations (1)

- The three ethical circles. Differences of and interconnection between social ethics, professional code and person's own ethics were explained. Resolving hypotheticals; having discussion from diverse aspects was very interesting and efficient. (1)

- The whole program was remarkable (1)

**B. What was the least effective part of the program? Why?**

There was none uninteresting part, however, did not understand well the introductory part but maybe my attention was low (1)

Some hypothetical situations were basically similar (1)

Some hypotheticals were too new for Mongolian judicial system and reality; however, it was right choice (1)

**C. What suggestions do you have to make this program better in the future?**

- To extend term of the training (3)
- Appreciation for providing well-organized training (1)
- To have examples and facts which reflected Mongolian feature about how to prevent from ethics violation and in what level Mongolian lawyers' ethics is; exchange opinions (1)
- Organizing systematic social ethics course via media for whole society not only for lawyers would be a base to heal the society. Also, it is necessary to add ethics and values subject to curriculum of secondary schools by recommending to Ministry of Education, Culture and Science. (1)
- To have 1-2 right answers. There were several answers which are unclear to distinguish right and wrong (1)
- Teacher who studied ethics issue in theoretic level should pair up with a trainer who has life experience; should outline few appeals from every ethics trainings and dispense appeals/training result by means of media (1)
- To organize specialized ethics trainings for prosecutors, advocates and judges separately and have their observation and view; should give attention to influence beneficially on legal professionals' performance through ethics courses (1)
- To organize this training over again and extend its time (1)
- To have compared study of many countries' professional code and disseminate progressive ideas; involve civil servants in ethics trainings to a greater extent (1)
- If involve all lawyers in ethics training hereafter it could be easy to speak to other lawyers in same level (1)
- To have continuing ethics training and involve young lawyers in (1)
- To distribute several countries' professional code of conducts as hand book and teach comparing; involve all lawyers in such trainings (1)
- Few numbers of trainings which include more information and practice lesson would have great importance and efficiency (1)
- Basically, having this kind of ethics course systematically will give enormous leverage in legal professionals' ethics and performing their duty (1)



**National Center for State Courts  
Mongolia Judicial Reform  
a USAID funded project  
“Legal Ethics and Ways to Develop Legal Ethics”  
July 2, 2004  
Ulaanbaatar**

The seminar will be held in cooperation with the Capital City Court, the Capital City Prosecutor's Office, the Mongolian Advocates' Association and the NLC in the new NLC building on July 2, 2004. The leadership of the judiciary, members of the Judicial Disciplinary Committee and the GCC will attend the training upon invitation. The manual on “Legal Ethics” will be handed out to participants.

**One. Basic Issues of Legal Ethics**

- |             |  |
|-------------|--|
| 14.00-14.10 | Opening <i>J.Amarsanaa, Academician (Director of the NLC)</i>  |
| 14.10-14.25 | Legal ethics, criteria and principles for definition of it<br><i>Kh.Temuujin, Doctor Degree Student (Lecturer at the National University)</i>      |
| 14.25-14.40 | Factors in development of ethical culture<br><i>Jack Marshall (Lawyer from the USA)</i>  |
| 14.40-15.00 | Legal ethics and independence of judge<br><i>L.Byambaa, Doctor Degree Student (Judge of the Capital City Court)</i>                                |
| 15.00-15.15 | Legal ethics and the influence of media on development of public opinion on the issue<br><i>T.Bulgan and D.Orosoo (NLC trainer and researcher)</i> |
| 15.15-15.30 | Question and answer  |
| 15.30-15.40 | Break  |

**Two. Code of Ethics for Judges, Prosecutors and Advocates and Ways to Apply Them**

- |             |  |
|-------------|--|
| 15.40-15.55 | Comparative studies of legal codes of ethics<br><i>E.Sugar-Erdene (NLC trainer)</i>  |
| 15.55-16.15 | Basic issues of judge's ethics and common faults committed by judges<br><i>B.Battseren (Judge of the Sukhbaatar District Court)</i>  |
| 16.15-16.35 | Basic issues of prosecutor's ethics and common faults committed by prosecutors<br><i>Kh.Batchimeg (Supervisory Prosecutor, GPO)</i>  |
| 16.35-16.55 | Basic issues of advocate's ethics and common faults committed by advocates<br><i>B.Purevnyam (President, Mongolian Advocates' Association)</i>   |
| 16.55-17.20 | Consideration of comments and complaints of advocates and citizens in evaluation of judge's and prosecutor's ethics<br><i>B.Tsognyam (Head of the Office of the Judicial Disciplinary Committee, Supreme Court) and Chuluunbat (Supervisory Prosecutor, GPO)</i> |
| 17.20-17.50 | Ways to reduce ethical violation by lawyers and proper application and development of legal code of ethics<br><i>(Free discussion)</i>   |
| 17.50-18.00 | Closing  |

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Madison, Wisconsin 53701  
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## Opinion Writing

July 16, 2004

Goal: Help identify the elements of a good written judicial opinion

### Purpose of Writing Opinion

Who are the Readers of the opinion?

### Opening Part of Opinion:

- Parties
- Court from which case came
- Procedural path of Case
- Summary of Decisions of other courts

### Statement of Issue or Issues

### Summary of Court decision on each issue

### Statement of Facts

### Discussion of Each Issue

- Argument of each party
- Explain principles of law applicable: statute, constitution, case, text
- Apply principle of law
- Conclusion

### Repeat summary of court decision on each issue

### Dissenting Opinions

### Concurring Opinions

### Distribution of Opinions

### Motion for Reconsideration

AGENDA  
NLC RETREAT

Subject: Implementation of CLE strategic plan of NLC

Date: Sep 17, 2004

Starting time: 09.30

Venue: Ikh Tenger

09:00            Leave to Ikh Tenger from NLC

09.30 – 10.00   Opening speech

Speech, J. Amarsanaa, Director of NLC and academy member

Speech, Robert La Mont, CoP of JRP

10.00 – 10.30   Presentation of CLE strategic plan implementation of National Legal Training Center (Presenter T. Mendsaihan, Head of NLTC)

10.30 – 10.45   Tea break

10.45 – 12.15   Recommendation of implementation and outlook of CLE strategic plan of NLC (each 10 min)

B. Tserendorj, State Secretary of MoJHA

B. Chimid, Secretary of NLC

Mary Frances Edwards, Legal Training Specialist, JRP

L. Zaya, Program Coordinator, GTZ

Ts. Sarantuya, Coordinator, Hans Zeidel foundation

N. Ganbayar, Academic Secretary of GCC

B. Tserenbaltav, Deputy of State General Prosecutor

B. Purevnyam, President of MAA

A. Oyunchimeg, President of Mongolian Chamber of Notary

12.15 – 12.45   Discussion of implementation and outlook of CLE strategic plan of NLC

12.45 – 14.00   Lunch

14.00 – 14.15   Research to evaluate legal training need and training as well as research methodology (Presenter E. Sugar-Erdene and T.Solongo, Lecturers of NLTC)

14.15 – 15.00   Discussion of research to evaluate legal training need and training, and research methodology (work by groups)

15.00 – 15.15   Tea break

15.15 – 16.00   Presentation of hand manuals published for NLTC's legal training and discussion of legal organization and professionals' support in handbook publication

16.00 – 16.30   Discussion of selection and training of CLE trainers

16.30 – 17.00   Leave to UB

## Legal Training Center

---

### Head

**T. Mendsaihan**

### Trainers:

**B. Bat-Erdene**

**T. Bulgan**

**T. Jargalsaihan**

**M. Munhbat**

**E. Sugar-Erdene**

### Recently joined:

**N. Munhtuya**

**T. Solongo**

**B. Tamir**



# **Implementation of CLE strategic plan of National Legal Center**

Retreat


Ih Tenger  
17 Sep, 2004

## **Major activities of Legal Education Center of National Legal Center:**

- # To teach amendments, spirit, principle, contents, objectives, basis to apply and method of legislations in compliance with international standard and professional level;**
- # To provide business knowledge for lawyers, to improve lawyers' qualification, to organize re-qualification trainings;**
- # To organize clinic and informal legal trainings.**

Strategic Plan of CLE was approved by the first meeting of the Governing Board of NLC which was held on 13<sup>th</sup> December 2003.

# Trainings in 2003

1	Training Title	Hour		Participants	
		NLC trainers	Guest trainers	UB	Province
1	Business law	230	88	62	45
2	Single-subject training	36	28	51	2
3	Internal trainings	6	36	32	
	 Total	272	152	144	47



# Special trainings

1	Training title	Hour		Participants	
		NLC trainers	Guest trainers	UB	Province
1	Advanced for judges	4	8	11	-
2	Special for notaries	26	14	33	-
3	Intermediate for judges	22	58	2	-
4	Intermediate for prosecutors	40	40	11	21
5	For advocates	18	18	29	18
6	Advanced for prosecutors	4	8	11	2
7	For judges and staffs of Court Admin office	30	10	2	-
8	Baby judges	18	62	2	7
	<b>Total</b>	<b>162</b>	<b>218</b>	<b>101</b>	<b>20</b>

## Training by order

<b>1</b>	<b>Training title</b>	<b>Hour</b>	<b>Participant s</b>
1	For security employees of MIAT in order of Capital City Police Dept	10	
2	For specialists of Civil marriage registration	78	30
3	Civil law and court practice	8	38
4	Business law for notaries	12	24
5	For investigators of Investigation Office, General Prosecutor's Office	40	20
6	For public inspectors to protect public rules	16	26
	<b>Total</b>	<b>164</b>	<b>138</b>

## Training in 2004

1	Training title	Training		Participant s
		Number	Hour	
1	Training for Lawyers' qualification examination	7	168	300
2	Special trainings	3	160	74
3	Single-subject training	11	63	243
4	Administrative Court (21 aimags)	21	504	650
5	Ordered training	1	40	28
	<b>Total</b>	<b>47</b>	<b>935</b>	<b>1295</b>

# Special trainings

1	Title	Training hour		Participants	
		NLC trainers	Guest trainers	UB	Province
1	Intermediate for judges	5	24	-	21
2	Advanced for prosecutors	-	3	32	-
3	Intermediate for prosecutors	9	14	-	21
	<b>Total</b>	14	41	32	42

# CLE Strategic Plan

One. Mission

Two. Vision towards the attainment of Mission

Three. Scope of CLE receivers, appliers and associates

Four. Implementation of CLE strategic plan and evaluation of its result

# Primary objectives of CLE

- To organize high-quality trainings based on lawyers' need
- Determined 9 factors which can influence on training qualities

# Influential factors in training qualities

1. Training management
2. Selection of subjects
3. Trainers
4. Environment
5. Training type, form and contents
6. Training technology and instructional methodology

# Influential factors in training qualities (continue)

7. Training manual

8. Timing

9. Training expenses



# Training evaluation

- Training need assessment;
- Evaluation of every training agenda;
- Independent evaluation of NLC training.

# Main subjects of discussion

- Training evaluation
- Training manual
- Training of Trainers
- Organization of distant learning
- Informal legal training
- Cooperation direction in 2005

# Primary objectives in 2005

- Learn preparation of complete training manual;
- Every training must have training manual;
- Improve selection and training of trainers.

**Thank you for all organizations for  
cooperating with us.**

**Wish you the best for your work.**



Thank you for your attention

## **STRATEGIC PLAN FOR CONTINUING LEGAL EDUCATION**

### **One. Mission.**

The Mission of the Continuing Legal Education of the National Legal Centre is to constantly improve the legal knowledge and professional skills of lawyers in conformity with the concepts and basic principles of the Constitution of Mongolia, the modern trends of legal theories, legal reform and the current needs of the judiciary, to introduce approaches/ experience/ practices/ thinking/ attitudes to work fair, independently and creatively in adherence to the principles of lawful statehood and the professional ethical norms.

(See Attachment #1-1 for a brief introduction of the retraining and professional development courses held between 1990 and 2003).

### **Two. Objectives and Actions towards the attainment of the Mission**

1. The Continuing Legal Education (CLE) is processes of improvement of legal skills, knowledge and qualifications, retraining and acquisition of new skills, which will continue through the period of lawyers' performance of their jobs and duties.
  - 1.1. To create conditions and environment that will insist on constant inspiration of lawyers to study under the laws, policies and code of ethics of the organization or according to the needs and demands of the market economy.
  - 1.2. To develop and implement unified training program to ensure continuity of systematized long-term and short-term training activities for legal professionals. To determine the scope of annual training activities to be conducted within the framework of the unified program. (See the Attachment #2-1 for Draft Unified Training Program for 2004-2007)
  - 1.3. To create a training cycle to let judges, advocates, prosecutors and other legal professionals attend retraining regularly.
2. **The system of CLE should be realistic and functional**
  - 2.1 This system could be effective if it is realistically conforms with current and future political and economic conditions and enjoys support of key organizations such as MoJHA, GCC, courts, State General Prosecutor's Office, advocates' and notaries' organizations.
  - 2.2 The main conditions for the existence of realistic training systems are conformity with the legal reforms and responsiveness to the needs and demands of legal professionals to study and improve their knowledge, skills and qualifications.
  - 2.3 The training system will consist of centralized nationwide trainings, internal trainings of justice system agencies and trainings of other organizations (of private organizations and investors). Simultaneously, the system will focus on providing lawyers with possibilities and conditions to study independently.
  - 2.4 The NLC is an organization that performs training duties of justice system organizations in a centralized manner nationwide by providing mutual understanding and cooperation on continuing legal education among the authorities concerned and creating proper relations to work by orders of those organizations.

**3. The system of CLE should be democratic.**

- 3.1. Broader involvement of lawyers and judicial organizations in the process of planning of legal professional trainings, their implementation, evaluation, and decision-making is an important condition for increasing the possibility of the trainings to meet needs and demands of legal professionals, to gain their support and to ensure the independency of the training process.
- 3.2. Training subcommittees for trainings of judges, prosecutors and advocates will be established at the NLC, which will ensure their better involvement in the process of developing and implementing of training programs.
- 3.3. Possibilities and conditions to consider proposals, orders and requests of other organizations in the NLC decision-making process will be created.

**4. The system of CLE should be consistent.**

- 4.1. The main condition for consistency of the CLE system is to create a unified structure (NLC), which is solely involved in training activities and is self-sustainable, as a mechanism for running continuing legal education system with the assistance of the justice system organizations of Mongolia.
- 4.2. To set up consistent financial mechanism and to find ways and legal basis to obtain certain subsidies from the Government Centralized Budget and conduct training activities by the order of the Government.
- 4.3. To set up fee-paying training programs that meet the training needs and demands of lawyers, to strengthen a self-financing training segment and to create an additional source of financing.
- 4.4. To search for alternative sources to finance the continuing training activities.
- 4.5. To identify methods and types of TOT (for trainers and training managers) and to set up conditions for steady supply of professional trainers and training managers.
- 4.6. To take actions to provide stability and development of legal status and legal environment of activities of the NLC consistently. (See Attachment #2-2 for excerpts on the legal status of NLC and continuing legal education from some legal acts as of November 1, 2003).
- 4.7. To coordinate activities of donors in the legal sector, to support their collaborations, to cooperate with them to avoid duplication of trainings and to raise their efficiency, and to receive their support and assistance.

**5. The system of CLE should be accessible**

- 5.1. To provide equal opportunities for all legal professionals to attend the continuing legal education training without regard to their places of residence, works and positions. This is especially essential for Mongolia, a country with vast territory, low density of population and expensive communication.
- 5.2. To direct the training activities to teaching lawyers a wide range of theoretical and practical knowledge and skills of legal and non-legal sectors.
- 5.3. To create conditions so that decision to attend training courses will not be dependant on decision or approval of any official.
- 5.4. To create mechanism to support involvement of local lawyers in training courses held in the capital city.
- 5.5. To conduct regional and local training courses for local lawyers.
- 5.6. To provide methodological assistance to local justice system organizations in organizing internal training courses.
- 5.7. To expand distance education for lawyers.

- 6. CLE system should be fair, independent, business-like and supportive to the development process of the judicial organizations.**
- 6.1. To teach a course on ethics of lawyers within each training and retraining course for lawyers and to enrich the content of courses on ethics and communication psychology constantly.
  - 6.2. To provide assistance to create proper approaches of independence of knowledge and skills, thinking and ways of working required for employees of courts and other justice system organizations to follow the principle of law obedience and the professional ethics honestly and exercise judicial powers efficiently and respectfully.
  - 6.3. To offer training courses for employees of justice system organizations to learn professional skills and proper case management in order to work more effectively.
  - 6.4. To develop and implement special informal training programs with a view to raise the legal consciousness of the citizens and the public, to enhance their trust in the justice system organizations and their staff, and increase the opportunities for assistance and cooperation.

**7. Quality training based on the needs and demands of legal professionals will be the primary goal of the CLE.**

- 7.1. The following factors affect the quality of training programs for legal professionals:
- 7.1.1. Preparation and organization of training programs. To determine training management newly based on modern management theories and experiences of foreign organizations of similar type.
  - 7.1.2. Selection of subjects. To conduct training programs on subjects, that meet the needs and demands of lawyers and the requirements of that particular time, and related to issues facing the practical activities of law application. The subject will be selected in conformity with the training type and forms.
  - 7.1.3. Training type, form and content. To conduct general trainings for all lawyers, special long-term trainings for judges, prosecutors, advocates and notaries and short-term training courses on specific topics in terms of types. To combine classroom teaching and distance education properly in terms of forms. In case of distance education, a special attention will be paid to technical facilities, feedback communication with audience and assistance to them. In terms of contents, the training courses will focus on teaching practical skills, besides theoretical knowledge.
  - 7.1.4. Creating of a learning environment. To improve supply of comfortable training classes with modern equipment and to provide voluntary and free learning conditions.
  - 7.1.5. Trainer. To have specially trained trainers with both theoretical knowledge and rich practical experience to conduct training courses. Trainers will be selected and work on a non-permanent staff basis.
  - 7.1.6. Training technology and teaching methodology. To introduce modern teaching methodology and training technology, which are based on active participation of trainees, use training equipment optimally and conform to adult learning methods.
  - 7.1.7. Teaching handouts. To provide handouts and other learning materials to improve the productivity of the teaching process.
  - 7.1.8. Training timeframe. To define time for conducting training courses and their duration optimally in accordance with lawyers' workload specifics, training needs and demands, and content of topics.
  - 7.1.9. Expenses related to trainings. To plan each training program based on preliminary calculation of financial resources and sources and cost efficiency.



- 7.2. Constant evaluation of each training program will be the main condition for training efficiency and quality. Evaluations will be conducted in the following 3 areas involving teacher evaluation, student evaluation and peer evaluation:
  - 7.2.1. To study and evaluate training needs and demands
  - 7.2.2. To evaluate training by each factor affecting its composition and quality
  - 7.2.3. To evaluate at the end of the training or after certain period of time.
- 7.3. It is appropriate to have guidelines for developing training programs and they shall reflect the methodology to identify and formulate the goals and objectives of the programs, to identify the learning methods of the trainees, to select the methods and forms to conduct the classes and to connect the trainings to the unified training program.

### **Three. Scope of clients, users and collaborators of CLE**

1. The main users of the CLE and the main clientele of the NLC will be judges, prosecutors, advocates, notaries and lawyers working in government organizations and business entities. Graduates of law schools, who are preparing for selection exams of lawyers, will be potential clients. (See Attachments #3-1 and 3-2 for the survey among lawyers and graduates of law schools).
2. Justice system organizations, such as courts, GCC, General Prosecutor's Office, Mongolian Association of Advocates, advocacy and law firms, the Mongolian Notaries Chamber, the Court Decision Enforcement Agency and the General Police Department will be partners of the NLC and the main customers of special and thematic trainings.
3. The NLC will report legal training works to Minister for Justice and Home Affairs.
4. NLC will collaborate with law schools, the Research Section of the NLC, the Information and Promotion Centre of the NLC, the Court Research Centre of the Supreme Court and other legal research and study organizations.
5. Actions will be taken to collaborate with foreign and international donor organizations implementing projects in the legal sector and to obtain their support and assistance.
6. The training subcommittees of judges, prosecutors and advocates will be the main advisors to the NLC.
7. Trainers will be selected among the lecturers and professors of law schools, lawyers working in the justice system organizations, researchers and scientists of legal and other sectors.

### **Four. Estimates of resources to be required for implementation of the strategic plan, their components and sources.**

1. Total staff to implement the training programs of the NLC will consist of 10 members (See Attachment #4-1 for staff structure and payroll estimates):
  - Director of the Training Centre or General Training Manager (1)
  - Managers-trainers of training programs (5)
  - Teaching methodology and equipment trainer-specialist (1)
  - Trainer-secretary for efficient coordination (1)
  - Training program advisors (non-permanent staff, contractors)
  - Trainers (contractors, except 2)
2. Training facilities and equipment (See Attachment #4-2)
3. Other expenses related to office and training activities (See Attachment #4-3)
4. Travel expenses of participants in special trainings (See Attachment #4-4)
5. Publishing and printing expenses of training manuals and handouts (See Attachment #4-5)

6. Collection of legal acts, library and internet expenses (See Attachment #4-6)
7. Expenses related to TOT (See Attachment #4-7)
8. Expenses related to implementation of specific tasks of the Strategic Plan (See Attachment #4-8)
9. Financial resources and reliable sources to supply them (See Attachment #4-9)
10. Management and its structural model (See Attachment #4-10)

#### **Five. Implementation of the Strategic Plan and Evaluation of its Accomplishments**

1. This Strategic Plan will be implemented in conformity with the Strategic Plan of the Judiciary of Mongolia. Besides, it would be appropriate to give due account to the Legal Reform Program of Mongolia approved by the State Great Hural in 1998 and other strategic plans and concepts.
2. The Strategic Plan will be implemented in accordance with the Action Plan. (See Attachment #5-1) The Action Plan will contain actions and methodological basis (definition of actions, time, responsible person, expense estimates and foreign assistance) set in the Strategic Plan.
3. Implementation and results of the Strategic Plan will be evaluated according to specific methods (results, criteria and evaluation periods) for each objective.
4. Amendments may be made to this plan if necessary considering on the results of implementation of this plan.

## **Attachments**

Attachment #1-1	An overview of the retraining and professional development training activities for lawyers held between 1990 and 2003.
Attachment #2-1	Unified Training Program for 2004-2007
Attachment #2-2	Excerpts of some laws and legal acts on the NLC legal status and CLE of lawyers (as of November 1, 2003)
Attachment # 3-1	Survey of lawyers working in the judiciary organizations
Attachment # 3-2	Survey of graduates of law schools (1990-2002)
Attachment #4- 1	Estimates of staff and payrolls of the Training Centre of the NLC
Attachment #4-2	Estimates of training facilities and equipment
Attachment #4-3	Other expenses related to office and training activities
Attachment #4-4	Travel expenses of participants in special trainings
Attachment #4-5	Publishing and printing expenses of training manuals and handouts
Attachment #4-6	Collection of legal acts, library and internet expenses
Attachment #4-7	Expenses related to TOT
Attachment #4-8	Expenses related to implementation of specific tasks of the Strategic Plan
Attachment #4-9	Financial resources and reliable sources to supply them
Attachment #4-10	Management and its structural model
Attachment #5-1	Action Plan to Implement the Strategic Plan. (Matrix – Action Plan)

Attachment to the Order # of the Director of the NLC of December ... , 2003

**Action Plan for the implementation of the Strategic Plan of the NLC Training Centre**

1. Goals	Action Plan	Who is responsible	Monitoring criteria and timeframe	Costs, in Thous. ₮	Collaborating ,supporting agencies and projects
<b>1. CLE will be a continuous process during the professional career of lawyers</b>					
1.1.	A. To legalize the responsibility of lawyers to mandatory education: 1. Besides studying experiences of other countries whether such a law is needed or not, an opinion survey among the Mongolian lawyers will be conducted 2. To conduct a research on the possibility of additions and amendments to the currently effective laws (Law on Selection of Lawyers, Laws on Courts, Prosecutor's Office, Advocacy, Notary) 3. To draft a law and prepare it for a discussion of the relevant subcommittee of the Ih Hural (joint with the MoJHA)	NLC	II quarter of 2004. An addition or amendment to relevant laws or a legal act will be in place.	500,0	JRP
1.1.	B. In case of rejection to legalize the responsibility of lawyers to mandatory education on the part of law initiators or legislative body : 4. To develop an educational standards for lawyers and issue recommendations 5. To propose to the management of the GCC, SGPO, MAA and Chamber of Notary to incorporate provision in support of the above recommendations or containing the requirements into the agencies' internal rules and policies		III quarter of 2004, to adopt a procedure for standards of mandatory education for lawyers, their monitoring criteria and certification of training curricula  GCC, SGPO, MAA, MCN shall adopt a document on CLE	500,0  2000,0	
1.1.	C. Other actions to encourage the need for education: 6. <u>To support and take an active part in the selection exams of lawyers or development of lawyers qualification examination standards:</u> - to develop standards of lawyers professional knowledge evaluation - <u>to develop a fund of examination tests to examine lawyers' knowledge and skills</u> - To develop a system of examinations to be passed by lawyers - <u>To conduct a training on methods of preparations for the</u>	NLC, GCC, SGPO, MAA, MCN	III quarter of 2004, A procedure defining scope and content of qualification examinations will be in place. <u>A fund of examination tests will be created. Manuals and handouts will be printed. Training courses will be conducted.</u>	5000,0	JRP  JRP  JRP



	<u>judges, prosecutors and notaries individually</u> 6. To develop an Annual Training Plan based on the Unified Training Program.		developed not later than November 30 of the previous year and will be distributed.		
1.3. To create and follow a training cycle for judges, advocates and prosecutors	To conduct special training courses for judges, prosecutors, advocates and notaries every year on a permanent basis: <ul style="list-style-type: none"> <li>- To develop conditions and requirements for attending special training courses</li> <li>- To agree with the GCC and SGPO to set up a requirement to attend a mandatory training course for career promotion of judges, prosecutors</li> <li>- <u>To develop a training program for newly-appointed judges and prosecutors</u></li> </ul>	LTC	The training courses will be conducted every year, including: <ul style="list-style-type: none"> <li>- initial course for newly-appointed judges and prosecutors</li> <li>- medium state course for judges and prosecutors (twice)</li> <li>- advanced course for judges and prosecutors</li> <li>- course for advocates</li> <li>- course for notaries</li> </ul>		JRP
<b>2. CLE system will be realistic and achievable</b>					
2.1. The CLE system will be realistically connected to the current and future political, economic conditions and will enjoy the support of main relevant agencies such as the MoJHA, GCC, courts, SGPO, advocates' and notary organisations, and thus be able to implement it.	To sign a document/agreement among the related agencies on cooperation to ensure mutual understanding and cooperation on the CLE and to determine proper mutual collaboration and distribution of roles between these agencies and the NLC. <ol style="list-style-type: none"> <li>1. <u>To conduct annually a round-table discussion with representatives of the relevant agencies</u></li> <li>2. During the round-table discussion to define the cooperation and coordination of activities within the framework of carrying out the CLE.</li> <li>3. To present information on the implementation process of the NLC Strategic Plan to partners</li> <li>4. To conclude agreements and memoranda on cooperation</li> <li>5. <u>To develop a system of certification for each training program for lawyers</u></li> </ol>	LTC	November 30, annually  Annually in December  A memorandum will be signed with the GCC, SGPO, MAA and MCN on joint CLE  A document will be issued on certification of CLE programs of lawyers	1000	JRP       JRP
2.2. Meeting the requirements of the legal reforms, and relying on the needs of lawyers to improve their knowledge and skills are the main preconditions for the realistic and successful existence	<ol style="list-style-type: none"> <li>1. To be flexible in organising training courses on new laws and legal acts approved within the framework of the legal reform.</li> <li>2. To continue training courses on proper application of newly-approved main laws (Civil Code, Criminal Code, Criminal Procedure Code)</li> <li>3. To reserve some time in the Annual Plan for training on some urgent and burning issues</li> <li>4. To focus training courses at providing efficient unified understanding to judges on new methods of resolution of</li> </ol>	LTC, LPC	2004-2008  2004  Annual training plan comments and reports will be evaluated against the following criteria:	2000	

of the CLE.	<p>certain types of disputes and cases in the criminal procedure.</p> <p>5. To incorporate into the training curricula subjects on the Supreme court commentaries and judicial practices on a constant basis:</p> <ul style="list-style-type: none"> <li>- To publish the commentaries of the Supreme Court as a brochure and distribute among the lawyers</li> <li>- To prepare and publish the second volume of the Supreme Court Commentaries the I volume of which was publish with the Judicial Reform Program funding</li> <li>- <u>To copy the decrees of the Supreme Court on CD-ROM for distribution for judges and prosecutors as computers become available and used.</u></li> <li>- <u>To conduct a specialized training courses on the Supreme Court</u></li> </ul> <p>6. <u>To develop an efficient delivery system of newly approved laws and legal acts to the staff of judiciary organisations;</u></p> <ul style="list-style-type: none"> <li>- <u>To print again book containing 5 laws that was printed with the JRP funding</u></li> <li>- <u>To publish and distribute 4 volumes of currently effective laws</u></li> <li>- <u>The above-said 5 volumes should published in a way that it could be added with pages with new amendments and additions could be added every 6 months</u></li> <li>- <u>To issue a "Legal information brochure" by the NLC on a constant basis for publication of legal acts on rules and procedures for general application.</u></li> <li>- <u>To publish a selection of the Laws of Mongolia on courts for judges</u></li> </ul> <p>7. To set up a legal information network for legal organisations</p> <p>8. To renew legal act collection of the NLC on a constant basis</p> <p>9. To develop a methodology of educational needs assessment among lawyers and conduct the needs assessment on a yearly basis. The results should be reflected in the development of the Unified Training Program.</p>		<ul style="list-style-type: none"> <li>- judicial reform</li> <li>- burning issues</li> <li>- court activity practice</li> </ul> <p>To set up and efficient delivery system of laws, international treaties, decrees of the Supreme Court and rules and procedures for general application to lawyers, especially to judges</p> <p>500 copies</p> <p>2000 copies each</p> <p>500 copies</p>		<p>JRP</p> <p>JRP</p> <p>JRP</p> <p>JRP</p> <p>JRP</p> <p>JRP</p> <p>JRP</p>
2.3. Training system will consist of nation-wide training program, internal training organised by law enforcement organisations and training courses	<p>1. A centralized system of continuous education of lawyers will be set up at the NLC.</p> <p>2. <u>The NLC will provide assistance and methodology management for internal training courses of judicial organisations.</u></p> <p>3. To provide conditions for conducting legal training courses by other organisations.</p> <p>4. Will encourage and support to independent learning process</p>	LTC	<p>2004</p> <p>March, 2004</p>	1000	<p>JRP</p>

organised by other organisations (donors, private organisations). Special attention will be paid to providing possibilities and conditions for individual learning	of lawyers				
2.4. The NLC will ensure mutual understanding, cooperation among related organisations on CLE and will be on a national level directly responsible for meeting training goals and guidelines of law enforcement organisations through establishing effective relations between them.	<ol style="list-style-type: none"> <li>The NLC will establish effective relations for operating by orders of other legal organisations in the capacity of being a direct organiser.</li> <li>- the NLC will adopt rules for conducting training courses by order</li> <li>- the NLC will establish proper client-executor relations</li> <li>- the NLC will define the scope of clients, customers and collaborators and will consolidate their cooperation</li> <li>To turn the NLC into an inter-agency organisation executing directly their training responsibilities, able to conduct all types of training programs in the legal area.</li> <li><u>With a purpose to improve quality of legal training and information supply the NLC will publish a monthly magazine "Rule of Law".</u></li> <li><u>The NLC will be in charge of publication, distribution and sale of current information flyer and magazine of the judicial organisations.</u></li> </ol>	LTC	<p>I quarter of 2004</p> <p>2004-2008</p> <p>Once in February, 2004, starting 2005 once per month</p> <p>Starting from I quarter of 2004</p>		<p>JRP</p> <p>JRP</p>
<b>3. The CLE system will be democratic</b>					



3.1. Active involvement of lawyers and judicial organisations in the process of planning, implementing, evaluation and decision making on lawyers' training is an important condition for meeting the needs of lawyers, gaining their support and for ensuring the independence of training process.	With the mentioned purposes to set up training committees for judiciary, advocacy and prosecutors, to encourage their activities, to determine a training policy, to develop a power to make decisions	LTC	Were set up in February, 2003	2000	
3.2. To set up training subcommittees of judges, prosecutors and advocates and ensure their active involvement in training program development	<ol style="list-style-type: none"> <li>1. To set up training committees</li> <li>2. To develop training programs with due account of the training committee members</li> <li>3. To define working conditions and bonuses for training committee members</li> <li>4. <u>To develop procedures for the training committee activities and have it approved by an order of the NLC Director</u></li> <li>5. <u>To convene an all-member meeting of the training committees on a constant basis once a quarter</u></li> </ol>	LTC	Will be organised by II quarter of 2004	1000	JRP  JRP
3.3. To create conditions to reflect the opinions and orders from legal organisations in the decisions of the NLC management on CLE.	1. To elect members of CLE organisations in the NCL Board and training committees.	LTC	2003	2000	
<b>4. The CLE will be sustainable</b>					
4.1. To create a mechanism to support the CLE on the part legal organisations of Mongolia with their own forces and to establish a unified	<p>To create a small, efficient, creative structure of the CLE within the NLC</p> <ol style="list-style-type: none"> <li>1. To create a division in charge of this work within the NLC</li> <li>2. <u>To develop a procedure for training and selection of professional training managers</u></li> <li>3. <u>To newly revise the job requirements and job description of a manager in charge of the training curricula.</u></li> </ol>	LTC	<p>2003-2008</p> <p>2003-2008</p>		JRP  JRP

reliable structure capable to ensure independent existence and independent training activities. This will become a main condition for sustainability of the CLE.	<ol style="list-style-type: none"> <li>4. <u>To conduct internal training courses continuously</u></li> <li>5. <u>To automate the training management and registration</u></li> <li>6. To improve the training material basis and equipment supply.</li> </ol>				JRP JRP
4.2. To create a reliable financial sources, to obtain support from the Centralized budget, and to define forms and legal justifications for conducting training courses for charge	<ol style="list-style-type: none"> <li>1. To study experiences of other countries with this regard</li> <li>2. <u>To create a financial system that is suitable for this organisation.</u></li> <li>3. To form a unified understanding on funding training purposes and define legal justification.</li> <li>4. To clarify legal justifications for obtaining funding from the Centralized budget.</li> <li>5. To create a unified understanding on financing training purposes jointly with the GCC and SGPO</li> <li>6. To conduct a research on a possibility of conducting training courses by the Government order.</li> </ol>	LTC	2004		JRP
4.3. To develop training programs for charge based on the needs on lawyers, thus create an additional source for funding	<ol style="list-style-type: none"> <li>1. To expand training programs for charge</li> <li>2. <u>To undertake activities for expanding lawyers' training programs for charge together with Project implementation organisations</u></li> <li>3. To create an environment suitable for conducting training programs for charge and to plant in lawyers psychology to support them</li> <li>4. <u>To implement training marketing policy.</u></li> </ol>				JRP JRP
4.4. To search for alternative way to finance CLE.	To create a legal education fund to obtain support and donations from Mongolian and foreign individuals and organisations.				
4.5. To determine forms and methods of training and selection of professional manpower (training managers, trainers) and to ensure a	<ol style="list-style-type: none"> <li>1. <u>To implement a special policy on selection of trainers. training of trainers and their instructional methodology.</u></li> <li>2. <u>To set up a mechanism for training of trainers and their encouragement</u></li> </ol>				JRP JRP

reliable supply					
4.6. To undertake permanent actions directed at improvement and stability of the legal environment and legal status of the NLC.	The NLC will take an active part in the improvement of laws and legal acts on CLE and the NLC.				
4.7. To coordinate activities of donors in the legal sector, to render support to their activities and assist in avoiding duplication and the efficiency of their activities. To cooperate with them and obtain assistance from them.	<ol style="list-style-type: none"> <li>1. <u>To attach importance to continuous long-term cooperation with donor organisations.</u></li> <li>2. <u>To direct attention and efforts of donor organisations towards the implementation of this Strategic Plan.</u></li> <li>3. <u>The NLC will be initiating various activities such as joint meetings, adoption of joint memoranda and etc aimed at promoting mutual understanding of donors, coordination of their activities.</u></li> </ol>				JRP  JRP  JRP
<b>5. CLE will be accessible</b>					
5.1. Lawyers with no regard to their residence, position and work will be provided with equal opportunity to be involved in the CLE.	<ol style="list-style-type: none"> <li>1. <u>To create a channel to distribute information about training courses to lawyers.</u></li> <li>2. <u>The NLC newspaper and magazine will be a main channel in doing so.</u></li> <li>3. <u>To create an information database on lawyers and their participation in training programs.</u></li> </ol>		2004 – 2005  2004 – 2007  2004		JRP  JRP  JRP
5.2. Training programs on legal and non-legal issues, broad knowledge on theory and practice and skills will be offered to lawyers.	<ol style="list-style-type: none"> <li>1. Courses on management, psychology, economics, accounting, computer and internet will be incorporated into the training programs on a constant basis.</li> <li>2. To conduct specialized training courses.</li> </ol>		2005  2005  2004		
5.3. To create conditions that the	<ol style="list-style-type: none"> <li>1. To ensure communication with individual lawyers.</li> <li>2. To ensure that every lawyer receives training programs</li> </ol>				

participation of lawyers in the training courses will be free from an approval of any official.	<ol style="list-style-type: none"> <li>3. To create a possibility for every lawyer to select in advance training programs he/she is willing to attend through contacting the NLC directly.</li> <li>4. To develop an official policy jointly with GCC and the SGPO on accepting personal wishes and interests of lawyers on the training process.</li> </ol>				
5.4. To create forms to support rural lawyers in attending training courses in UB at the NLC.	<ol style="list-style-type: none"> <li>1. <u>To set up a fund at the NLC to support the legal education of rural lawyers.</u></li> <li>2. To develop a procedure for financial assistance to rural lawyers' education at their request.</li> <li>3. To develop a program of grants.</li> </ol>		Starting from 2004 2004		JRP
5.5. To conduct local and regional training courses for rural lawyers	<ol style="list-style-type: none"> <li>1. <u>A substantial part of the NLC training programs (20-30%) will be training courses in rural areas.</u></li> <li>2. <u>To train trainers from among rural lawyers.</u></li> </ol>		2004-2007		JRP JRP
5.6. The NLC will render assistance to local legal organisations in conducting local training courses.	<ol style="list-style-type: none"> <li>1. The NLC training programs will be coordinated with the local training programs of local legal organisations.</li> <li>2. To render assistance in methodology and in handouts.</li> <li>3. The NLC trainers may be sent for conducting training courses.</li> <li>4.</li> </ol>		II quarter of 2004		
5.7. To expand distance education for lawyers.	<ol style="list-style-type: none"> <li>1. <u>To design special training programs for distance education.</u></li> <li>2. <u>To introduce education forms through internet and phone system.</u></li> <li>3. <u>To conduct training courses on CD-ROMs and video tapes.</u></li> <li>4. <u>To create a library of training course video-tapes.</u></li> <li>5. <u>To develop series of manuals and hand-outs on:</u> <ul style="list-style-type: none"> <li>- <u>Civil procedure</u></li> <li>- <u>Arbitrage</u></li> <li>- <u>Administrative procedure</u></li> <li>- <u>Constitutional procedure</u></li> <li>- <u>Criminal procedure</u></li> </ul> </li> <li>6. <u>To use the NLC publications in distance education.</u></li> </ol>		Starting from 2004		JRP JRP JRP JRP JRP JRP
<b>6. The CLE will be fair, independent and supportive of effective judicial organisations.</b>					
6.1. Courses on lawyers' ethics will be incorporated into	<ol style="list-style-type: none"> <li>1. <u>To develop a unified programs for courses on lawyers' ethics.</u></li> <li>2. <u>To publish on a constant basis manuals on lawyers' ethics.</u></li> </ol>	LTC	IV quarter of 2004	1000	JRP JRP





	<p>lawyers, training needs, subject content and scope.</p> <p>9. Cost of training. Training costs and expenses will be estimated in advance for each training program based on financial resources, and sources and efficiency of costs.</p> <p>10. <u>To select best teacher-trainer of 4-hour training on one topic</u></p>				JRP
<p>7.2. Training evaluations will be conducted on the following 3 directions by a teacher-trainer, learners and collaborators:</p> <p>7.2.1. Training needs assessment</p> <p>7.2.2. Training its parts will be evaluated against factors affecting quality of training.</p> <p>7.2.3. Training results will be evaluated upon the completion of the training or after some period of time.</p>	<p>1. <u>Training needs assessment:</u></p> <ul style="list-style-type: none"> <li>- <u>to develop a unified methodology for needs assessment</u></li> <li>- <u>to conduct needs assessment annually separately for judges, prosecutors and advocates.</u></li> </ul> <p>2. <u>Training its parts will be evaluated against factors affecting quality of training:</u></p> <ul style="list-style-type: none"> <li>- <u>to conduct evaluation of conducted training courses on unified and separate basis constantly</u></li> </ul> <p>3. <u>Training results will be evaluated upon the completion of the training or after some period of time:</u></p> <ul style="list-style-type: none"> <li>- <u>Evaluations will be conducted upon the completion of the course by a teacher-trainer and learners through questionnaires.</u></li> <li>- <u>Learners and collaborators will conduct evaluations after 3-6 months through questionnaires.</u></li> </ul>		IV quarter of every year		<p>JRP</p> <p>JRP</p> <p>JRP</p>
<p>7.3. It is appropriate to have training program design models that will state the goals and objectives, learning styles of learners, instructional methods and forms and coordination with the Unified Training Program.</p>	<p>1. <u>It is appropriate to have training program design models that will state the goals and objectives, learning styles of learners, instructional methods and forms and coordination with the Unified Training Program.</u></p> <p>2. <u>Training managers will be involved on training design courses a constant basis.</u></p>		<p>In II quarter of 2004 a methodology guidelines for the development of training programs will be in place</p> <p>Training of training managers will be conducted annually.</p>		<p>JRP</p> <p>JRP</p>

**Mongolia Lawyer Qualification Examination**  
**January 30 – February 2, 2004**  
**The Mongolian Judicial Reform Program**  
**Report and Recommendations**

The Non-Staff Council for the Selection of Lawyers of the Ministry of Justice and Home Affairs was in charge of administering the examination to test the qualification of newly graduated lawyers and existing lawyers seeking new positions, in accordance with the law passed by Parliament in May 2003. The examination consisted of two parts: 100 written multiple choice questions graded by machine and a single oral question graded by three examiners. Applicants who scored 70 or above on the written exam were supposed to be qualified to take the oral exam. The Council contracted with Mongolia's National Legal Center to create the examination, produce it, and assist in administration of the examination.

Although the Council and the NLC tried extremely hard to maintain confidentiality, transparency and fairness, there were several problems during the first administration of the examination on January 30 – February 1, 2004.

**Examination Design & Production**

The NLC solicited thousands of questions for the examination from 123 scholars and trainers. None of the writers had any way of knowing whether their questions were used. Out of those, 3,000 questions were chosen. From those, NLC and JRP staff and Council members created 20 written examination with 100 questions each under tight security in the JRP office. Nobody on the staff of the NLC or JRP planning to take the exam was allowed in the room or on the premises while this was going on.

Six days before the exam, three written tests were chosen. Spoiled hard copies were shredded by JRP and Council staff and burnt. The computer processor was cleaned, and the disks and hard copy were locked away by a JRP staff member in separate secure places. The other 17 tests and answer keys were locked in the JRP safe. Council NLC, JRP staff and police monitored the printing of the three written exams. The exams were color coded and bound in packages with a wax seal and JRP/USAID sticker seals to prevent tampering. They were kept in the MoJHA building until it was time to convey them to test sites. All three examinations were shipped to the test sites in the custody of the examiners appointed by the Council. The only tiny flaw in this process was that the wax seals were positioned in such a way that if one picked the bundle up by the string the seal could be broken accidentally.

On Friday morning January 30, JRP staff joined the Council and the NLC Director of Training for selection of the examination to be administered. The Council chose one of the three tests that had been printed to be administered at approximately 9:15 AM the morning of the exam. The process was transparent; it was videotaped. The Council members drew lots. No one had any way of knowing until the lots were drawn who would actually choose the exam. The person who "won" then picked one of three identical brown envelopes. In each was a color swatch that matched the color coding of the exams. The envelope chosen contained the blue swatch. All test sites in Ulaanbaatar and the aimags were notified by telephone which test to use. Other than that, the assembly and production was handled extremely well, under secure conditions. Until approximately 9:30 am the morning of the exam, no one at the test centers had any way of knowing which of the printed test was going to be the one actually given.



Just before choosing the test, we found out that there were allegations that some someone on the NLC staff had sold examination questions to applicants. Apparently some trainers in NLC the bar preparation course used questions they had submitted for the exam as examples during the course. Someone allegedly put together packages of many questions and sold them to applicants for 60,000 MNT/package. Although this is disturbing, since no one had any way of knowing which 100 questions out of thousands were on the exam actually administered, it is unlikely that buying thousands of questions would have given any cheaters much assistance. This was proven by the low number of people who scored 70, even in Ulaanbaatar. On the 30<sup>th</sup>, the Council and JRP indicated they would turn the matter over to the police. However, as of February 9, they had not. Despite the time lag, the police should still investigate this allegation.

### **Administration of Written Examination**

JRP staff monitored test sites in Ulaanbaatar, Erdenet: Khovd, and Tsetserleg, the test centers with the largest number of applicants. There were two other small test sites in Choibalsan and Dalanzadgad. In Ulaanbaatar, there were multiple rooms in two different buildings. The JRP COP was in one building and the Legal Training Expert in another, each accompanied by a Mongolian JRP staff member. Mongolian JRP staff members monitored the three aimag sites.

Although some of the monitors tried to do the right thing, there were a number of problems with administration of the written examination that facilitated cheating by the applicants. Many applicants complained afterwards over the difficulty of the exam.

#### ***Problems:***

- 1) Applicants were seated much too close. They were elbow to elbow in crowded rooms. In Tsetserleg, numbers drawn by applicants at the beginning of the exam included duplicates. This became know only after tests were graded by machine and two different applicants claimed one score.
- 2) Although there was supposed to be random seating, this did not work out right. Applicants were allowed to sit next to friends and acquaintances.
- 3) Some applicants shared answers with people seated next to them. This was clear both when the tests were run through the grading machines and when the test results were announced. After numerous tests below 70, suddenly two or three tests in a row would come out of the grading scoring 70 or more because they were in the order the tests were collected. In addition, when test results were announced, people seated next to each other were clearly those with the passing scores.
- 4) Applicants were allowed to retain their cell phones, leading to the possibility that calls or text messages could be made or received for assistance in answering. Applicants could also retain bags which might contain materials that could assist in answering.
- 5) Monitors were backed up by cadets from the Police Academy. These young men did what the monitors asked. However, they were not proactive in stopping applicants from talking. Using cadets from the Police Academy is a potential conflict of interest because they will take the exam in coming years, and recent graduates were sitting for the exam. They also lack the authority of Mongolian Police, like the ones who monitored and protected the printing of exams.
- 6) The test rooms did not start simultaneously, although they were supposed to, so they did not finish simultaneously, opening up the possibility that someone who finished could phone answers to someone in another room still writing.
- 7) When time to stop was announced, some people kept on writing. As the tests were collected, people in the back had a longer time to write.

- 8) There were some ambiguities or duplicates in the answers on the examination which undermined the credibility of the key answers and led to post-exam complaints and requests for manual checking of the tests.
- 9) The test was too long to be taken in one hour and forty-five minutes. That allowed little over a minute per question.
- 10) At one test sites, Erdenet, the coding of the test forms by the applicants' numbers was done after the exam instead of before. This minimized confidentiality.
- 11) In the aimags, some people unaffiliated with the test process were in the testing rooms.
- 12) Some applicants did not fill in the test forms properly.
- 13) Some applicants, particularly those in the aimags, objected to the time of year of the exam because travel conditions were hazardous.
- 14) Some applicants from the aimags complained that in addition to having to travel long distances and incur significant expense by local standards, they did not have the benefit of the live bar review course at which they could have asked questions. They had, at best, videotapes.

The JRP suggests even stricter implementation of the Council guidelines for administration of future written examination. The JRP is trying to obtain protocols from TOEFL and IELTS for the Council and NLC to study so that they can adopt some of the procedures followed by these organizations. Their language examinations are strictly monitored to avoid cheating and any appearance of impropriety. Applicants to the legal profession need to appreciate that the lawyer qualification examination is as serious as the English language exams.

***Recommendations:***

- 1) More test sites and rooms with people seated no closer than every other chair. The IELTS standard is one meter apart.
- 2) Applicants should be randomly assigned to different rooms and be assigned by number to seats to avoid friends and acquaintances seating beside each other.
- 3) Monitors must strictly enforce the silence and expel from the test room and disqualify any one who shares answers, whether they are the answer giver or the answer receiver. Refer allegations of question theft and/or sale and cheating to the police.
- 4) All applicants must relinquish their cell phones and all written materials when their ID is checked. Envelopes on which applicants can put their name or test number are the easiest for avoiding confusion over cell phones.
- 5) Borrow Mongolian police or military to back up the monitors.
- 6) All test rooms should start and stop at the same time.
- 7) Applicants must stop writing when time is called. They should raise their forms in the air until the monitors collect them.
- 8) The exams should be reviewed and edited by scholars/experts for clarity of questions and accuracy of answers. Contract with the staff at the Technical University who are familiar with Scantron machines to analyze the test results; if nearly everyone failed some questions, those questions may have been unclear or too difficult. They should also analyze pass rates by law school to see if the private law schools are providing an adequate legal education.
- 9) Allow three and a half or four hours for the examination. People who finish before time should be allowed to submit their test form to the chief monitor and vacate the room in silence.
- 10) Distribution of applicants' test numbers should be done before they take the test.
- 11) Only authorized personnel approved by the Council should be in the testing rooms. Members of the media and outside monitors should be given passes or ID badges like the NLC monitors wore.

- 12) Applicants need more training and instruction on how to fill in the test forms properly. The chief monitor in each room should have a script to read so that all applicants are given the same instructions. The bar review course should include a segment on how to fill in the test form properly. Posters should be in each room with a sample and instructions. [The JRP will assist with design, production and funding of the posters.]
- 13) Road accidents can happen anytime, but consider having the exam at a different time of year.
- 14) Investigate the alternative of having a test site in each aimag. The fewer people taking the exam at each site, the easier they are to monitor. Have the bar review videos available earlier in the aimags and provide a means for questions & answers.

### **Scoring of Written Examination**

JRP and Council staff observed the testing of grading machines and verified their accuracy. In general, the written scoring went well. However, there can be improvements

#### ***Problems:***

- 1) Due to applicant errors in filling out the form, some tests could not be graded by machine.
- 2) Complaints at test sites were dealt with on a one by one basis.
- 3) Setting up and programming the grading machines were done in test rooms. This was distracting for the applicants near the machines. The tests were then graded in front of the applicants. Although this was done to provide transparency, it opened the possibility of some manipulation of tests and created chaos.
- 4) Oral announcement of written scores by number was handled differently at various sites.
- 5) The borrowed machines malfunctioned; many tests at that site had to be hand graded.

#### ***Recommendations:***

- 1) Develop a protocol for transparent grading by hand of the tests that cannot be graded by machine.
- 2) Develop a protocol for dealing with complaints so that they are handled identically at all test sites. Have a paper describing the post-exam complaint procedure ready to give applicants whose complaint cannot be resolved on site so that they know where and how to proceed afterwards.
- 3) Consider having the grading machines in a separate, secure room entered only authorized staff and allow applicants to view grading through closed circuit TV. Never allow the applicant to touch the test again after it has been turned in.
- 4) Develop a protocol for standard announcement in all test locations that minimizes crowding and chaos.
- 5) Either use only the new machines purchased by JRP or test the borrowed machines well in advance.

### **Scoring System**

The Council had announced far in advance that only applicants scoring 70 or above on the written examination would qualify to take the subsequent oral examination. It is our understanding that almost no one in the aimags and only 160, about 12.5%, of the applicants

in Ulaanbaatar scored 70 or above, despite the sharing of answers observed by JRP, Council and NLC staff.

“Article 9 Selection process” of the Law of Mongolia on the Selection of Lawyers reads:

9.1. Selection process shall be conducted in forms of a hypothetical problem to find resolution to a specific task within a legal field through application of related laws and **interviews**.

9.2. The maximum duration of the selection exams (hereinafter referred to exams) shall be three days.

**9.3. If a person received not less than 70 % of total scores of the exam, that particular exam shall be considered as passed.**

9.4 Unified examination results shall be announced after completion of all exams using the confidential coding for each examinee.

As will be described below under Complaint Process, section 9.3 gave rise to dispute. Applicants disagreed with the Council’s interpretation of 9.3, particularly after they scored less than 70 and did not qualify initially to take the oral exam.

***Problem:***

JRP staff advised Council staff that a low pass rate on the first national qualification exam was a good thing because it demonstrated the gravity of the exam and raised the caliber of the legal profession. However, on the evening of January 30, without JRP input, the Council lowered the passing score on the written examination from 70 to 50.

Anyone who scored 50 or above could take the oral exam. Their purported reasons were:

- a) Ambiguity over 9.3, and
- b) Since the overwhelming majority of applicants failed, there would not be enough applicants to fill vacant judge and prosecutor positions, especially in the aimags.

By lowering the passing score on Friday night, the pass rate rose from 13% to almost 70%. To pass the entire exam, they had to have a combined score on the written and oral exams of 140 out of a possible 200. 140 is 70% of 200. Due to the change in criteria for passing the written exam, some people didn’t realize they qualified to take the oral. 80 people did not receive notification and needed to be tested afterwards. Moreover, it remains unclear if lowering the minimum score of 70 down to 50 was in compliance with the Article 9.3 of the lawyer qualification exam law.

The change in criteria in mid-exam exposes the Council up to allegations that it acquiesced to political pressure from the ruling party and/or influential individuals to lower the passing score so that more people would qualify to take the oral exam and therefore be admitted. This is particularly abhorrent in a Mongolian election year. It was very poor policy to change procedures in the middle of the examination. The late notice or lack of notice to people who didn’t realize they could take the oral was a denial of due process. It also suggests that the bar admission process is political, which could lessen Mongolia’s chances to be a recipient of US Millennium challenge funding. The most serious flaw in the entire examination process was changing the passing written score after the written exam.

***Recommendation:***

- 1) Do not change the rules in the middle of the next exam, regardless of the pass or fail rate.
- 2) Before the next exam, either have 9.3 amended to make the passing score clear or submit it to the Supreme Court for clarification. Then follow the criteria.

**Administration of Oral Examination**

JRP staff monitored test sites in Ulaanbaatar, Erdenet, Khovd, and Tsetseleg. In Ulaanbaatar, the COP and Legal Training Expert investigated procedures on Saturday morning January 31 when the oral exams were beginning. After that, JRP Mongolian staff monitored throughout the weekend.

The three examiners were supposed to tabulate their own score for each applicant privately. The secretary to each examination committee then calculated an average score and entered it into the record. The impression of some examiners was that many people who had scored in the 70s knew nothing about the law. This corroborated the observation on the written exam that many people cheated. Fortunately, many of these cheaters seem to have flunked the oral exam. None of the Saturday questions were supposed to be reused on Sunday. In Ulaanbaatar, there were enough questions that each applicant was asked a different question. However, because the oral exam was "open book" (the law books were supposed to be available in the room), the oral questions were never subject to security measures.

***Problems:***

- 1) An inherent flaw in the oral examinations was that they were not anonymous. The examiners knew the faces of the applicants or the applicants could surreptitiously give their names.
- 2) The examiners knew the written scores of applicants, so they knew how many points each applicant needed to pass.
- 3) Examiners had cell phones and accepted calls. Some JRP staff had the impression that they were writing down numbers, possibly the ID numbers of applicants they were being asked/coerced/bribed to pass.
- 4) There were not enough law books in the test rooms for each applicant to have equal time to use them.
- 5) Some laws referenced in questions were not available.
- 6) Procedures were not identical in each testing room.
- 7) Three applicants were admitted to a testing room at a time, violating the confidentiality of each other. The second and third applicants could hear the examination of the first, arguably giving them some advantage. (Having two applicants in the room at a time is consistent with Mongolian universities' oral examination procedures. One applicant answers while the next prepares. However, having three is not standard.)
- 8) Some examiners conferred about the scores, although this was a violation of procedure.
- 9) Some examiners were too easy on unqualified candidates who answered questions poorly.
- 10) Some examiners had their own students in front of them, creating a conflict of interest.
- 11) In Erdenet, they did not have enough questions for all applicants and had to recycle. Therefore, later applicants had the opportunity to share the questions from earlier applicants.

- 12) Some of the oral examiners were in the building during the written exam the day before and observed the reading of scores. This created the opportunity for applicants to approach the examiners. (In the aimags, at least in Tsetserleg, oral examiners acted as monitors as well. This was the decision of the central exam committee.) In Tsetserleg, unaffiliated people were in the testing rooms.
- 13) No order was set for people to enter the testing rooms, not even whether they should return Saturday or Sunday, leading to crowding and confusion, and long waiting period. 80 people never received notice after the written pass rate was lowered that they could take the oral; they had to be given later.
- 14) Applicants had the same ID number for the oral exam as for the written.
- 15) There was confusion afterwards over where to find out one's final score.

### ***Recommendations:***

- 1) Give an anonymous essay examination instead of an oral interview to ensure confidentiality, transparency and fairness. This requires an amendment to 9.1 of the law, which specifies an interview. **If this cannot be done:**
- 2) Give examiners only the ID numbers of applicants, not their scores on the written exam.
- 3) Sequester examiners' cell phones and institute a disciplinary process for any examiner who passes an applicant for any reason except merit.
- 4) Have enough law books for each applicant to have equal time to use them
- 5) Have all laws available.
- 6) Have an examination protocol and ensure that all examiners follow it exactly.
- 7) Admit only one applicant at a time.
- 8) Discipline any examiners who confer on scores. Seat the examiners apart so that they can not look at each others' scores.
- 9) Examiners must understand the gravity of the process and be harder on applicants. Having each applicant answer a short essay question with restrictions on time and length of answer minimizes misplaced sympathy and preserves anonymity. The Council should give everybody involved in the exam process, particularly the examiners, a pre-exam orientation, explaining the gravity of the process and the penalties for violating procedures.
- 10) Recuse any examiner who has his/her own student or send that applicant to another testing room. Develop and require every examiner to sign a conflict of interest policy.
- 11) Have enough questions so that each applicant gets a different question.
- 12) Keep oral exam questions confidential.
- 13) Do not have the oral examiners present at the written exam. Have different people as oral examiners than as written monitors.
- 14) Set up a schedule with return day and approximate times. Make sure everyone who qualified for the oral exam is notified.
- 15) Give applicants a new ID number before they take the oral exam.
- 16) Make it clear when and where final scores will be available.

### **Complaint Process**

The NLC received numerous complaints from disappointed applicants. The Council set up a complaint committee chaired by Justice Dorjgotov of the Supreme Court, consisting of Dr. Amarsanaa and four other members. Complaints about grading the written exam, due largely to errors in marking the form, were handled immediately on site. The more serious complaints that could not be immediately resolved fell into five basic categories:

***Problems:***

- 1) 61 applicants who scored 70 or more on the written exam protested that applicants scoring only 50 - 69 were allowed to take the oral examination.
- 2) Substantially the same 61 applicants protested that having scored 70 or more on the written exam they should not have taken the oral examination.
- 3) 23 applicants protested that applicants scoring 40-49 were not allowed to take the oral exam because theoretically they still had the chance to score up to 100 more points and pass.
- 4) After the written exam, Supreme Court staff who took it protested that the Council's procedures and interpretation breached Article 9 of the law (above). All the Supreme Court staff who had taken the written exam were allowed to take the oral exam, and they all passed.
- 5) Approximately 30 applicants who took the written and oral and scored between 128 and 139 complained that they had flunked. Apparently most of them were passed after the fact. 6 or 7 of them still failed. Most of these seem to be grading errors from the borrowed machines. However, passing so many people after the exam initially gave the appearance of impropriety.

***Recommendations:***

- 1) The JRP thinks the 61 applicants who protested over the change in criteria mid-exam have a valid argument. Whatever the announced criteria are, the Council must adhere to them. They all passed the oral exam. Balgan arranged for them to get the first certificates, numbered 1 – 61, so that they can always prove they passed purely on merit on the original strict criteria.
- 2) It was clear from the resolution passed by the Council on December 5, 2003, that applicants scoring 70 would have to take the oral exam, but no potential applicants complained at that time. These complaints of the 61 people are without realistic basis. However, they might not have complained if the Council had not changed the criteria in mid-exam.
- 3) The JRP thinks that the applicants scoring 40 – 49 have a valid complaint; theoretically they still had a chance to attain 140, although it was unlikely.
- 4) The NLC staff expressed concerns to the Council over Article 9.3's ambiguity and its interpretation before the exam, but the Council rejected the NLC's argument. Before the next exam, Article 9.3 needs either to be amended or interpreted by the Supreme Court.
- 5) The Council should announce the Complaint Committee procedures in advance. The rationale for complaint Committee decisions should be clear, and the process should be transparent.

***Summary***

A chart from the Council is attached showing the number of applicants registered to take the exam by location, the number actually taking it, the pass rate on the written exam by location, and the pass rate of those who qualified to take the oral exam.

The JRP applauds the serious efforts the Council and the NLC made to preserve confidentiality, transparency and fairness in the qualification examination process. In particular, we compliment Tserendorj, Balgan, Amarsanaa, and Mendsaikhan for their valiant efforts to administer the examination fairly. We look forward to working with them, the Council, and the NLC to improve the process next time.

The examination production process was very good. The exam itself requires more review and editing. Implementation of the security rules on site needs to be stricter. In particular, anyone who cheats by sharing answers or spying on another person's test should be disqualified. Just having more space for each applicant will minimize cheating. All allegations of question theft/sale and cheating should be referred to the police.

A short written essay test is more anonymous and takes little more time to grade than oral interviews. Article 9.1 should be amended to eliminate interviews, which are logistically difficult and provide the opportunity for favoritism. Whether oral or written, the examiners in the second phase of the exam should not have the scores from the first phase. Procedures at all test sites must be uniform.

Article 9.3 should be amended to clarify what is meant by 70% or interpreted by the Supreme Court. The Council needs to establish an appeal protocol.

Finally, whatever passing criteria are established in the future, they must be maintained throughout the examination process. In addition to being a violation of good procedure, altering the passing score during the examination lowered the rise in professional standards the exam was intended to establish. That decision also diminished the credibility of the examination process and tarnished the legal profession. It taints the credentials of who passed the exam January 30 – February 1, 2004

Attachment: Exam Preliminary results 2-2-04



**Discussion about Mongolian Legal Advisors Training & Credentials**  
**Sponsored by the Mongolia Judicial Reform Project**  
**April 2, 2004**  
**9:30 am – 4:00 pm**

- 9:30 am**      **Departure for Ikh Tenger**
- 10:00 am**      **Welcome and Opening Remarks**  
Mr. La Mont
- 10:10 am**      **Training & Credentials of Legal Advisors in Other Jurisdictions**
- USA – Ms. Edwards, Legal Training Specialist, JRP  
Germany – Mr. Javkhlan, Project Coordinator, GTZ  
France & Russia – Ms. Otgonbayar, Coordinator, JRP  
Japan – Mr. Tanabe, Expert for Legal reform, JICA  
Other Jurisdictions – Dr. Gramckow, Program Director, JRP
- 11:00 am**      **Break**
- 11:15 am**      **Group Discussion**  
All participants are encouraged to express their views
- 1:00 pm**      **Lunch**
- 2:00 pm**      **Group Discussion continued**
- 4:00 pm**      **Summary of Remarks**  
Mr. La Mont
- 4:15 pm**      **Closing beverages**

**Discussion about Mongolian Legal Advisors Training & Credentials**  
**Sponsored by the Mongolia Judicial Reform Project**  
**April 2, 2004**

**9:30 am – 4:00 pm**

\*actually attended

**PARTICIPANTS:**

Donor representatives:

1. Mr. La Mont, JRP \*
2. Ms. Edwards, JRP \*
3. Ms. Otgonbayar, JRP \*
4. Mr. Enkhbat, JRP \*
5. Dr. Gramckow, JRP \*
6. Mr. Zaya, GTZ \*
7. Mr. Javkhlan, GTZ \*
8. Ms. Sarantuya, Hanns-Seidel Foundation
9. Ms. Enkh-tsogt, Legal Education Academy, HSF \*
10. Ms. Oyunchimeg, World Bank project \*
11. Mr. Tanabe, JICA \*
12. Mr. Jeff Goodson, USAID
13. Ms. Mendsaikhan, USAID \*

Public sector:

14. Mr. Amarsanaa, NLC Director, Chair, Professional Committee of Advocates Association
15. Mr. Mendsaikhan, NLC Training Department \*
16. Ms. Gerel, Capital City Court judge, civil bench
17. Ms. Gerelmaa, NLC business law lecturer \*
18. Mr. Zumberellkham, NLC Criminology Sector \*
19. Ms. Narantuya, Head of the Central Bank Legal Department \*
20. Mr. Munkh-Orgil, Deputy Minister, MoJHA
21. Mr. Tserendorj, MoJHA State Secretary, Head of Lawyer Qualification Exam Council \*
22. Mr. Balgan, Chief, MoJHA Admin/Department, member of Lawyer Qualification Exam Council \*
23. Mr. Chinbat, Head, Intellectual Property Agency
24. Ms. Sainbayar, legal counsel, Ministry of Environment \*

Non-government sector:

25. Mr. Purevnyam, President, Mongolian Advocates Association \*
26. Ms. Oyunchimeg, President, Notaries Association
27. Ms. Naranchimeg, Dean of "Otgontenger" University
28. Mr. Narangerel, Dean of National University Law School
29. Mr. Enkhdalai, Association of Protecting Foreign Investors' Interests \*
30. Mr. Murun, President, Young Lawyers Association
31. Mr. Demberel, Chair, Chamber of Commerce & Industry of Mongolia
32. Ms. Altantsetseg, Chief Arbitrator, CCIM
33. Mr. Bolorchuluun, advocate, "Suvd" law firm \*
34. Mr. D. Mahoney, "Lynch & Mahoney" law firm \*
35. Ms. Alison Croft, Ivanhoe Mines \*
36. Mr. Enkh-tur, Head of the Law Department, Trade & Development Bank \*
37. Ms. Narantuya, Mongol Bank

**Minutes of Roundtable Discussion on Legal Advisors**

1. Mr. Enkhtur (Head of Legal and Compliance Department, TDB):

Our bank was acquired by the Joint Consortium of Mongolia, USA and Switzerland in 2002.

Lawyers developed the legal documents of the TDB and economists attended the court hearings representing their bank and using the documents prepared by lawyers before. The bank realized that this was a wrong practice, changed this situation and set up a legal department in 2000. The Legal and Compliance Department has 5 lawyers. The increasing working requirements demand lawyers to improve their qualification. The banks often pay attention to improving qualification of bank professionals and tend to ignore the importance of lawyers' qualification. Although I worked in the bank for seven years as a lawyer, I attended only two trainings: 1) 14 day training organized by the MoJHA. 2) a bar review course. Legal advisors are not covered by trainings. The Training Center of the Central Bank of Mongolia lacks the legal curriculum.

Proposal: A non-government organization which is responsible for legal advisors should be established.

2. Mr. Tserendorj (State Secretary of the MoJHA):

Proposals:

- to review and amend the curricula of law schools,
- to focus on improvement of quality of qualification of legal advisors.

3. Mr. Purevnyam (President of the Mongolian Advocates' Association):

Development and retraining of lawyers working in business sector or legal advisors is an issue which should be considered important with its role and contribution to the development within the framework of democratic changes and legal reforms in Mongolia. According to practice and observation, "legal advisors" can be defined as follows:

1. A legal advisor of a business organization is an employee of the organization who performs his/her works in his/her organization, earns regular monthly salary, and holds a certain position in the organization. In other words, a legal advisor is an employee who works according to the labor agreement. This creates the following conflicts: A legal advisor receives his/her salary from his/her company or organization. Therefore, the legal advisor becomes a defender of his/her boss (director), who pays him/her, instead of giving the company legal advice to remedy any faults in case of violation of the relevant labor laws and procedures, including overtime and vacation procedures.

2. It is clear who will work as a legal advisor today if we consider the following facts:

- a) There are no criteria for them.
- b) More often people who were dismissed or relieved from any justice system organization (for ethical and disciplinary reasons) become legal advisors. Organizations employ them considering their experience and acquaintances.
- c) Legal advisors are not covered by the Law on Selection of Lawyers. This caused the above-mentioned situation and decreased their reputation and legal status.
- d) Legal advisors have desire to become advocates.

3. According to international practice, it is getting common for lawyers (advocates) to unite into entities (e.g. bureau, office etc.) to conduct their activities independently and freely. It is becoming popular in our practice too. Unfortunately, the MoJHA does not register our advocates as bureaus and the government pursues a policy not to register advocates as bureaus and force them to establish companies and to be registered with the taxation authority despite absence of any official decision.

The Law on Advocacy specified that a legal entity might be set up. This is not understood as a company. Legal entities are divided into profit and not-for-profit entities under the Civil Code. The Mongolian Advocates' Association is registered as a not-for-profit entity under the Law on Registration of Legal Entities. Registration of a bureau, which is a unit of the association, as a company may lead to many negative outcomes:

- a) If they become companies, their main goal will become profit
- b) If they work for profit, they will defend human rights and problems after considering their profits
- c) They will get VAT from their clients on top of their advocacy fees
- d) If they register as a company, the company will expand its activities in trading of spirit and petrol, export and import.

4. Mr. Balgan (Head of the MoJHA Department of Public Administration):

The new lawyer's qualification system was designed to be a brand new mechanism to enhance the reputation of legal profession, to increase the qualification of legal professionals, to increase the requirements for them, to create a unified database of legal professionals, and to define the outline of the current training system of legal professionals, skills of law school graduates to apply the laws, their test experience and knowledge.

The law does not define who is a lawyer (i.e. criteria for lawyers, e.g. from which law schools they must have graduated, which exams they must have passed etc.), but has become merely a system to issue a certificate, which is one of the materials to be lodged to employers, to people who will work in 7 certain positions. This affected the interests of many legal professionals and created inequality among lawyers and difficulties for legal practitioners working in other positions (particularly those who work in private sector) and their employers. The law does not provide whether a certificate on passing this exam will be required from these lawyers and lawyers who work in public service (besides the officials specified in the law), what criteria shall be imposed on them, and how they shall be selected for jobs.

But NGOs, which should protect the interests of lawyers, like the Mongolian Lawyers' Association (hardly noticeable), Mongolian Association of Young Lawyers (the most considerable event organized by the organization was a new year party) and the Women Lawyers' Association have not made their voices heard on the issue. This fact demonstrates that these organizations have other aims and goals.

Therefore, we should establish an NGO of lawyers who work in various areas to protect the common interests of lawyers. This NGO should create a new credential system for legal professionals in Mongolia by choosing one of the two systems, i.e. Bar system and the German model of two stage credential system, and submitting this proposal to the State Great Hural.

5. Ms. Narantuya (Head of Legal Department, Central Bank of Mongolia):

Legal advisors of the Central Bank of Mongolia provide legal advice to government and non-government organizations and banks. I spent 40% of my working hours on development of draft laws, regulations and procedures, 15-20% on communicating with other organizations on behalf of the bank, and the rest of my time on attending court hearings of civil cases and giving advice and recommendations.

Generally, legal advisors are engaged in all kinds of works in Mongolia. Therefore it is important to consider how legal advisors are selected and trained. It is also very important to qualify legal advisors. Legal advisors of our bank attend trainings conducted by the IMF, but

do not attend any training in Mongolia. It is difficult for us to adopt the knowledge we obtained abroad into bank regulation in Mongolia, because other lawyers and professionals of Mongolia hardly understand what we are planning. This is because there is no lawyer trained to this level in Mongolia.

The Central Bank has its training center. The training center used to conduct trainings in cooperation with the Judges' Retraining Center of the State Supreme Court before.

I would like to make the following proposals in connection with the topics of today's meeting:

1. Legal advisors need to be specialized. We should create specific theoretical and practical programs for them in business field to this end.
2. After completion of training, we should examine them, then put them into list and give them certificates. This is very important, because they will have certification of their qualification to show. It is also important for recruiting organizations and people to select them.
3. The main issue is the criteria for selection. We would need donors' assistance in setting these criteria. For example, we will need experience and information of tests and qualification systems of other countries.
4. We need to do preparation and organization of selection process well. We should not do this in hurry, but we need long preparation to conduct the selection well and properly.

6. Mr. Bolorchuluun (Advocate):

Since I am an advocate, I support the ideas of Purevnyam, President of the MAA. But I would like to express my own opinion as a participant of the seminar. Although I have a license of advocacy, I often do legal advisor's works. I give several companies legal advice. Any business has its own risks, but if you get legal advice, you may reduce your risks by at least 10%. Therefore, the role of legal advisor is great. The following are my proposals:

1. Many people are concerned about lack of training for legal advisors of organizations. Therefore, I would like the organizers of the event to do certain things. From my point of view, legal advisors will play an important role in development of law in Mongolia.
2. I am ready to assist any certain works to be done in this area.

7. Ms. Sainbayar (Legal Advisor of the Ministry of Environment):

Thank you for organizing this discussion. I have been working in the government organization as a legal advisor for more than 20 years. Legal advisors are working with two legal statuses. 1) as legal advisors of government organizations, 2) legal advisors of companies.

Advocate's rights of public servant-legal advisors are suspended under the law, whereas such rights of legal advisors of companies are not suspended.

Proposals:

- to make amendments to the relevant laws to create administrative legal advisors
- to make amendment to the Law on Selection of Lawyers to require government and private legal advisors to take the lawyer's qualification exam.

8. Ms. Gerelmaa (Trainer of NLC):

Most legal advisors work under the Labor Law. They 1) give advice, 2) represent their client in court hearings, 3) make sure that legal acts issued by the organization conform to the laws. Legal advisors of government organizations do not have rights to work as advocates.

Legal advisors of private entities enjoy rights to work as advocates. Therefore, some people said that legal advisors should have rights to work as advocates. So, these legal advisors must take the first exam or the general lawyer's qualification exam, then the second exam or the qualification exam of advocates' organization.

Legal advisors of government organizations must take the general lawyer's qualification exam too. This will help them raise their reputation.

9. Mr. Enkhdalai (Advocate, Association for Protection of Interests of Foreign Investors):

I am representing the Association for Protection of Interests of Foreign Investors here. The founders of the association are well-know advocates and legal practitioners. We founded this organization after long discussion. We included our goal to protect the interests of foreign investors in the statement of mission and the by-laws of the association.

We discuss here the issues of legal advisors, who do not have special licenses, but "law" diplomas.

From my point of view, legal advisors should not be required to take the qualification exam. But we should not leave their qualification issues unregulated. Therefore, we should create such organization, provide trainings to the legal advisors and issue certificates to them. Otherwise the qualification system of legal advisors is chaotic.

Lawyers, who are qualified in ethics and business law, should train young business lawyers. But the above-mentioned organization should be independent from the Government and perform its functions as a non-government organization, because politicians and the government try to influence advocates who are working in big criminal and civil cases.

So, an independent organization of lawyers should perform the above-mentioned functions. If the JRP would like to provide assistance in this issue, the JRP should pay attention to the following things:

1. The Constitution, the Criminal and Civil Codes stated that every citizen was entitled to represent himself/herself. This causes the main problem.
2. The law bureaus are required to register as companies under the law. This provision allows people who have a right to found a company, but don't have a license of lawyer establish law offices. These people found companies without legal knowledge. Therefore, we should to work make amendments or adjustments to the existing laws or the current system.

10. Ms. Oyunchimeg (World Bank project):

1) Today's discussion focuses on issue of establishment of training institution for legal advisors. We should use the NLC which is responsible for retraining of lawyers better instead of establishing another training institution. So, the NLC need to advertise itself among lawyers more effectively.

2) Within the framework of the World Bank project, curricula of law schools are being developed. In connection with this, we need to set the requirements for law school graduates. Over 2000 people graduate from more than 20 law schools every year. The graduates do not work in their field. So, we need to consider whether the graduates need to be specialized, If they don't work as lawyers after their graduation. We are studying and discussing this issue. Nevertheless, the requirements will eventually become higher. Currently, we need people

with legal education. The graduates should attend the NLC trainings and take the qualification exam, then they should take the next qualification exam to work in their fields.

The role of the NLC is increasing in this transition period. Retraining should be organized as specialized trainings. I hope that many law schools will become more competent in training of lawyers eventually due to market competition.

Although we should legal education to everybody, we should pursue a policy to switch into the system where citizens get advice from specialized legal advisors.

11. Mr. Zumberellkham (NLC):

The demand and need for legal assistance is still increasing in the private sector, and will certainly increase further. Today's discussion focuses on a timely subject, i.e. how to fill the vacuum left by the Law on Selection of Lawyers. There is nobody who is responsible for status of legal advisors, their qualification, skills, service quality and ethics. If this situation continues to exist further, lawyers who are working in this sector and the sectors who are receiving their services will be affected badly. Therefore, we should solve this problem immediately and properly. An association or a non-government organization, which is responsible for the above-mentioned issues, should be created and its activities should be independent from control and interference of the government.

12. Mr. La Mont (Chief of Party, JRP):

We will compile all the proposals made by the participants of the discussion and distribute them among the participants. We will get people's ideas on further actions.

We may conclude that 4 main issues were raised by the participants:

- 1) exam
- 2) training, who will conduct the trainings
- 3) organization
- 4) ethics

Several questions arise in connection with the above-mentioned issues:

- whether legal advisors are required to take a qualification exam;
- if necessary, whether they should take the general lawyer's qualification exam;
- whether they should take a separate exam;
- whether there should be a code of ethics for legal advisors, whether the special organization should impose disciplinary measures on them in case of ethical violation;
- whether there should be a new organization of legal advisors or the legal advisors should join the association of advocates;
- whether the membership of the organization should be voluntary or mandatory;
- if it is a voluntary organization, how the organization should work.

We should consider all the above-mentioned issues as a whole. We should consider many important issues, i.e. whether the organization should be independent from the Government or not, whether the organization should conduct trainings and what we should do about ethics. We will study the experiences of other countries and will send our recommendations to you. Thank you for your active participation in this discussion. See you.

**JRP 2004 Staff Retreat**  
**Agenda**  
**Friday, March 5, 2004**

9:45 am	Departure from MoJHA
10:45 am	Arrival at Chingghis Ger Camp
	Welcoming Refreshments and Remarks (La Mont)
	Team Building Exercise: Interview & Introduce Another Team Member (Edwards)
11:15 am	Group Discussion of 2004 Workplan
1:00 pm	Lunch
2:00 pm	Discussion of anti-corruption activities (La Mont)
3:00 pm	Team Building Exercise: 3 Wishes from a Genie (Edwards)
3:30 pm	Team Building Outdoor Activities
4:30 pm	Closing Beverages
5:00 pm	Departure
6:00 pm	Arrival back at MoJHA



## JRP Staff Retreat Agenda Fall 2004

Revised as it actually happened

9:15 am	Departure from MoJHA
9:45 am	Welcoming refreshments
10:00 am	Introduce Another Staff member
10:45 am	Tray Game
11:15 am	Break
11:30 am	Life Boat Survival Exercise  Individual - 10 minutes Teams - 20 minutes Scoring – 10 minutes Discussion of Survival Exercise – 20 minutes
12:30 pm	Team Building Outdoor Activities
1:30 pm	Lunch
2:45 pm	Discussion of Employee Manual
3:45 pm	Suggestions for 2005 JRP Workplan
4:30 pm	Closing Beverages
5:00 pm	Departure
6:00 pm	Arrival back at MoJHA

**Forum on CLE in Mongolia**  
**Sponsored by the Mongolia Judicial Reform Project**  
**April 5, 2004**  
**2:30 – 5:30 pm**

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|---------|--|
| 2:30 pm | Welcome & Group Introductions<br>Mr. La Mont, JRP Chief of Party   |
| 2:45 pm | JRP CLE Goals and Purpose of This Meeting<br>Mary Frances Edwards, JRP Training Expert   |
| 2:50 pm | JRP CLE Accomplishments in 2003 Projects for 2004<br>Mary Frances Edwards, JRP Training Expert   |
| 3:15 pm | Update on National Legal Training & Research Center<br>Dr. Amarsanaa, Director of the NLC  |
| 3:30 pm | Refreshments   |
| 3:45 pm | Open Discussion of the Future of CLE<br>All participants have the opportunity to share their CLE plans and express their views.<br>Moderated by Dr. Gramckow, JRP Program Director |
| 5:30 pm | Closing Remarks<br>Dr. Gramckow, JRP Program Director  |